

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 12/04/2008

Department of Commerce  
National Oceanic and Atmospheric Administration  
FOR CERTIFYING OFFICIAL: Suzanne Hilding  
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 05/26/2008

ACTION REQUESTED: Extension without change of a currently approved collection  
TYPE OF REVIEW REQUESTED: Regular  
ICR REFERENCE NUMBER: 200805-0648-001  
AGENCY ICR TRACKING NUMBER:  
TITLE: Fishermen's Contingency Fund  
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change  
OMB CONTROL NUMBER: 0648-0082

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 12/31/2011

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	200	1,008	1,000
New	200	1,008	500
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	-500
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland  
Deputy Administrator,  
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Fishermen's Contingency Fund Application	88-164	Fishermen's Contingency Fund Claim Application	
Fishermen's Contingency Fund 15 Day Report	88-166	Fishermen's Contingency Fund 150Day Report	

# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

1. Agency/Subagency originating request	2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span> a. _____ - _____
3. Type of information collection ( <i>check one</i> ) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested ( <i>check one</i> ) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) ( <i>if applicable</i> )	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	
10. Abstract	
11. Affected public ( <i>Mark primary with "P" and all others that apply with "x"</i> ) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond ( <i>check one</i> ) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden ( <i>in thousands of dollars</i> ) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection ( <i>Mark primary with "P" and all others that apply with "X"</i> ) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting ( <i>check all that apply</i> ) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission)  Name: _____ Phone: _____

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT  
FISHERMEN'S CONTINGENCY FUND  
OMB CONTROL NO.: 0648-0082**

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary.**

The Fishermen's Contingency Fund claim application form is needed by commercial fishermen who file claims against the Fishermen's Contingency Fund (Fund or FCF). Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 ([43 U.S.C. 1841](#)) authorizes this program which compensates U.S. commercial fishermen for losses of, or damages to, fishing gear or vessels, plus 50% of resulting gross economic loss, attributable to oil and gas activities on the U.S. Outer Continental Shelf (OCS). Program requirements are set forth in [50 CFR Part 296](#).

The 15-day report form is needed by claimants for gaining a presumption that the damage or loss was caused by an item related to OCS oil and gas activities. If a 15-day report is not filed, the claimant must show by a preponderance of evidence that the obstruction causing the damage was related to OCS oil and gas activities. These requirements are set forth in 50 CFR Part 296.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

The application (National Oceanic and Atmospheric Administration (NOAA) Form 88-164) consists of a section for property loss and a section for economic loss. The property loss section requests identifying information such as the applicant's name, address, phone number, and Tax Identification Number (TIN). It also requests information pertaining to the casualty for which compensation is claimed. This includes the name of the claimant's vessel, the location of the obstruction, whether the obstruction was marked, the date the casualty occurred, whether a 15-day report was filed, the amount and type of damage claimed, description of the casualty and likely causes, efforts to recover gear, description of proofs of ownership included with the claim and estimates of repair or replacements costs, and identification of witnesses.

This information is needed to determine if the claim is timely filed (within 90 days of the casualty), if the casualty occurred in an eligible area (on the OCS in an area affected by oil and gas activities), if it occurred due to eligible causes, the extent of the casualty, and to provide information necessary to verify the facts of the claim.

The economic loss section requests information pertaining to economic loss, and consequential damages resulting from the casualty. This includes: 1) the length of trips and income from those trips prior to the casualty, 2) number of gear units lost and 3) date replacement gear was ordered and received or the date repairs were commenced and completed.

This information is used to determine a reasonable period for replacement or repair of the gear or vessel and the amount of economic loss associated with the casualty. The Fund pays 50% of

resulting economic loss. This section also requests information regarding consequential damages such as extra fuel consumption or claim preparation fees.

The application also includes inventory schedules which list the amounts of gear involved in the casualty, its purchase date, purchase cost, and repair or replacement cost. These are used to calculate the amount of compensation for replacement or repair cost. The application also includes an affidavit by which the claimant attests to the truthfulness of his claim.

The 15-day report form (NOAA Form 88-166) requests identifying information such as the claimant's name, address, phone number, and TIN. It also requests information pertaining to the casualty, such as identification of the vessel involved, the location of the obstruction, a description of the casualty, the date and time of the casualty, and the date the vessel first returned to port after the casualty. This information is used to determine if the 15-day report is timely filed and if the casualty occurred in an area affected by OCS oil and gas activities.

As explained in the preceding paragraphs, the information gathered has utility. National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries Service) will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NOAA Fisheries Service decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to Section 515 of Public Law 106-554.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

Hard copy applications are required because original signatures are required and there are severe penalties for fraud. We do not currently have the capability for e-signatures. However, the 15-day report may be submitted telephonically.

Both forms are available as fillable and printable on the NMFS forms portal, [http://www.nmfs.noaa.gov/gpea\\_forms/forms.htm](http://www.nmfs.noaa.gov/gpea_forms/forms.htm).

**4. Describe efforts to identify duplication.**

Because NOAA Fisheries Service is the sole provider of FCF compensation, there is no duplication of other information collections.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

Most respondents are small businesses. The requirements are limited to those necessary to ensure that the Government only reimburses legitimate losses.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

Statutorily-mandated financial assistance could not be delivered without this information collection. Since this is an application process, the frequency of response is determined by the respondents.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

N/A.

**8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

A Federal Register Notice published on December 3, 2007 (72 FR 67912) solicited public comment on this renewal. No comments were received.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payments or gifts are made other than the benefits the program disburses.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

The information collected is confidential under section 303(d) of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*); and also under NOAA Administrative Order (AO) 216-100, which sets forth procedures to protect confidentiality of fishery statistics. Assurance of confidentiality is stated on all forms.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

No sensitive questions are asked.

**12. Provide an estimate in hours of the burden of the collection of information.**

The estimated burden is as follows:



Applications: 100 respondents x 1 response x 10 hours/response = 1,000 hours

15-day report: 100 respondents x 1 response x 5 min/response = 8 hours

Totals: 100 respondents, 200 responses, 1,008 hours.

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).**

Annualized costs per respondent are estimated at \$5.00 (\$3.00 for postage, \$1.00 for copying, and \$1.00 for long distance phone charges for calling in 15-day reports). Based on 100 respondents, this equates to \$500.

**14. Provide estimates of annualized cost to the Federal government.**

Number of applications x average response time x average salary of claims examiner/hr plus 62.8% overhead and benefits = 100 x 3 hr x \$43.46 = \$13,038.00 + 62.8% = \$21,225.86.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.**

N/A.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

The results will not be published.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

N/A.

**18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.**

There are no exceptions.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

Statistical methods are not used.





I, \_\_\_\_\_, a U.S. citizen, am the  OWNER  OPERATOR of the \_\_\_\_\_  
 (CLAIMANT'S NAME) (VESSEL'S NAME)  
 and have read all of the foregoing statements and supporting documents relating to this claim, and to the best of my knowledge all statements and documents are true and correct.

SIGNATURE	DATE
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**CRIMINAL PENALTY FOR FRAUDULENT CLAIM.** Any person who files a fraudulent claim is subject to criminal prosecution under 18 U.S.C. Section 284 and 1001, each of which, upon conviction, imposes a penalty of not more than a \$10,000 fine and 5 years imprisonment, or both.

**Privacy Act Statement**  
 Section 3701 (c) of title 31, United States Code, authorizes collection of this information. This information is part an application for benefits and is required to obtain those benefits. The primary use of social security numbers or taxpayer identification numbers is to verify the identity of the applicant(s) and to allow preparations of IRS 1099s for claim payments as required pursuant to Section 6109 of the Internal Revenue code.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to National Marine Fisheries Service, Financial Services Division, F/MB5, 1315 East West Hwy., Rm. 13301, Silver Spring, MD 20910.

Confidential name and address information will be released via a NOAA Fisheries website for informational purposes. All other data submitted will be handled as confidential Fishery Statistics. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

REMARKS AND ADDITIONAL INFORMATION

  
  
  
  
  
  
  
  
  
  

**SURROGATION AGREEMENT**

I, \_\_\_\_\_, on behalf of individual/corporation, in consideration of the Compensation received pursuant to the provisions of the Outer Continental Shelf Lands Act Amendments of 1978, Title IV, from the United States of America, represented by the Secretary of Commerce, acting by and through the Administrator for the National Oceanic and Atmospheric Administration (the "Secretary") on the date hereof, I do hereby subrogate, assign, transfer and set over to the Secretary and the Secretary's successors and assigns, any and all rights and remedies, sums of money now due or owing to and nature, which I have had, or now have, or may have arising out of the loss, damage or destruction to our fishing vessel or gear for which the compensation has been granted, I hereby appoint the Secretary, the Secretary's successors and assigns, myself true and lawful attorney and attorneys, with full power of substitution and revocation, for me and in my name, or otherwise, but for the sole use benefit of the said Secretary, the Secretary's successors and assigns, to ask, demand, sue for the said claim or claims, or any part thereof.

I agree to provide the Secretary with all available and relevant information concerning the circumstances surrounding the events leading to the loss, damage or destruction for which the aforementioned compensation has been received. We also undertake to furnish the Secretary with such affidavits or declarations and to give such oral evidence as the Secretary may, in his/her discretion, deem necessary for the lawful pursuit of any claim arising from the aforementioned subrogated rights.

In witness whereof, I have hereunto set my hand and seal on the date indicated below.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature



FISHERMEN'S CONTINGENCY FUND CLAIM APPLICATION

INSTRUCTIONS TO CLAIMANTS

I. GENERAL

The Fishermen's Contingency Fund is authorized by Title IV of the Outer Continental Shelf Lands Act Amendments of 1978. Its purpose is to compensate commercial fishermen for damage or loss caused by obstructions associated with oil and gas activities on the Outer Continental Shelf (OCS). The Program is administered by the National Marine Fisheries Service, Financial Services Division - F/SF2, 1315 East-West Highway - Room 13138, Silver Spring, MD 20910.

PRESUMPTION OF CAUSATION

A presumption that the damage or loss was caused by items associated with oil and gas activities on the OCS is allowed if you report the damage or loss to the National Marine Fisheries Service within 15 days after the date your vessel first returns to port. If all the criteria of a 15-day report are fulfilled, you need not establish the nature of the damage. If a complete report is not submitted within the 15 day period, the presumption will not be allowed and you will have to prove that the obstruction causing the damage was related to OCS oil and gas activities.

FILING YOUR CLAIM

You must file, in writing, a complete and accurate claim within 90 days after the date you first discovered your damage or loss. The term "filed" means delivered in person, or mailed (as determined by the date of the postmark) to the Chief, FSD, address above. The Chief, FSD, suggests that claims be sent by registered or certified mail, return receipt requested so you will have a record of receipt of your claim.

FAILURE TO MEET FILING REQUIREMENTS

The Chief, FSD, may reject your claim, if it does not meet the filing requirements. If your claim is rejected, the Chief, FSD, will give you written notice of the reasons for rejection within 30 days after the date on which your claim was filed. If you don't refile an acceptable claim within 30 days after the date of this written notice, you are not eligible for Fund compensation unless there are extenuating circumstances.

AGGREGATING CLAIMS

If more than one commercial fisherman suffers loss or damage from the same incident (for example, when several members of the crew lose income due to loss of fishing time), their losses should be included in one claim and submitted on their behalf by the owner or operator of the commercial fishing vessel involved.

AMENDMENT TO CLAIM

You may amend your claim any time before the Chief, FSD, issues a final determination.

II. WHAT CAN BE CLAIMED

You may file for actual and consequential damages as follows:

(1) Actual Damage:

- (a) The lesser of the gear's repair or replacement cost, and
- (b) The reasonable replacement cost for lost fishing gear.

(2) Consequential Damage:

(a) **RESULTING ECONOMIC LOSS:** You may claim for gross income loss resulting from time lost because of not being able to fish, or having to reduce fishing effort, during the period before the damaged or lost fishing gear is repaired or replaced and available for use. This period must be reasonable. It begins on the date of the casualty and stops on the date the damage could reasonably have been remedied by repair or replacement.

(b) **ATTORNEY, CPA, CONSULTANT FEES:** You may claim for reasonable fees paid to an attorney, CPA, or other consultant for the preparation of your claim. The Chief, FSD, will determine what

amounts are reasonable. You will not be compensated for these fees if the claim is denied.

(c) **OTHER:** You may claim for any other consequential damage loss, (except personal injury) incurred as a consequence of the fishing gear damage or loss.

III. NEGLIGENCE CLAIMANT

An award will be reduced to the extent that the damage or loss was caused by your negligence or fault. Basic grounds for finding a claimant negligent or at fault are listed in the FCF Regulations. Negligence of the owner or operator of fishing gear will affect crew member awards to the same extent that it affects an award to the owner or operator.

IV. INSURANCE PROCEEDS

An award will be reduced by the amount of any compensation you are entitled to receive from insurance.

V. PENALTY FOR FALSE CLAIMS

Any person who files a fraudulent claim is subject to prosecution under 18 U.S.C. sections 2187 and 1001, each of which, upon conviction, imposes a penalty of not more than \$10,000 fine and 5 years in prison, or both.

VI. DOCUMENTATION REQUIRED

Here is a checklist of documents which must be submitted with your claim:

(1) With your claim for actual damage:

(a) Proof that you purchased the fishing gear damaged or lost. Submit copies of the best evidence available, e.g., sales receipts, affidavits, cancelled checks, or other evidence; and

(b) Receipts or estimates showing repair or replacement costs.

(i) If you replace your gear or have it repaired before filing your claim, submit a copy of the itemized invoice or receipt for the replacement or repair cost. If you usually repair or construct your own gear, you may submit a detailed estimate of your own repair or construction cost; include receipts for materials used.

(ii) If you have not replaced or had your gear repaired before you file your claim, submit one estimate from a commercial fishing gear repair or supply company of the present replacement or repair (whichever applies) cost of the damaged or lost fishing gear. (NOTE: The Chief, Financial Services Division, may require the submission of a second-source estimate.)

(2) With your claim for consequential damages:

(a) In the case of claims for resulting economic loss, a statement of the amount claimed and the basis for that amount with supporting documentation as follows:

(i) Trip tickets for the three vessel trips immediately before the trip during which the casualty was discovered and for the vessel trip immediately following the trip during which the casualty occurred.

(ii) A statement of the amount of time involved on each of the vessel trips (or if the casualty involves fixed gear, a statement of the number of gear units hauled on each of these vessel trips.)

(iii) A statement of the amount of time lost from fishing because of the damage or loss and a full explanation of why this time period is reasonable.

(b) Compensation for resulting economic loss will be based on 50 percent of the gross income lost, as estimated by the Chief, FSD, as a result of not being able to fish; or having to fish at a reduced level of effort during the period before the damaged or lost fishing gear is repaired or replaced and available for use. The period begins on the date of the casualty and stops on the

INSTRUCTIONS CONTINUE ON NEXT PAGE.

INSTRUCTIONS (Contd)

date the damage or loss could reasonably have been remedied by repair or replacement. Appropriate documentation may consist of purchase orders, bills of lading, or statements from commercial repair or supply sources.

(3) In the case of amounts claimed for other consequential damages resulting from the casualty, the claim must include a full description of what each amount represents with suitable documentation.

(4) Photographs (if available) of the obstruction and of any damage to your gear.

(5) The name and mailing address (phone number if available) of each person, if any, to whom you have given oral or written notice that such person caused or may have caused the damage or loss, together with a copy of any written notice given each such person and a statement whether each such person has paid or will pay you for any portion of the damage or loss.

VII. NMFS PROCESSING OF CLAIMS

The National Marine Fisheries Service will process your claim and mail a written initial determination to you within 60 days of the date it is complete with regard to the information required for compensation from the Fund. An initial determination will state (i) if the claim is disapproved, the reason for disapproval, or (ii) if the claim is approved, the amount of compensation and the basis on which amount was determined. If you disagree with the initial determination, you or any other interested person who submitted evidence relating to the initial determination, may request a review of the initial determination. Your written request must be postmarked within 30 days of the date of the initial determination and must fully state your reason(s) for disagreement. If no request for initial review is submitted within 30 days, the initial determination will become a final determination. If a petition for review of an initial determination is timely filed, the Assistant Administrator, NMFS, or his designee will conduct a review of the initial determination, and issue a final determination within 60 days after the day on which the request for review of the initial determination was received.

VIII. PAYMENT OF AWARD FOR CLAIM

(1) When an initial determination becomes final the Chief, FSD, shall immediately disburse the amount awarded if you:

(a) State in writing that you will not petition for review of the initial determination; and

(b) Sign an agreement to repay all or any part of the amount of the award if, the amount of an award should for any reason be subsequently reduced.

If you do not submit the agreements specified above, the Chief, FSD, will not disburse the amount of your award until expiration of 30 days after the issuance of the initial determination.

IX. SUBROGATION

Upon payment of a claim, the Chief, FSD, must obtain a subrogation agreement signed by you which:

(1) Assigns to the Fund your rights against third parties; and

(2) Provides that you will assist the Fund in any reasonable way to pursue those rights.

NOTE: The agreements specified above (Settlement and Subrogation) will be mailed to you along with the Initial Determination. If you accept the Initial Determination, the amount of your award will be disbursed immediately upon receipt of the signed documents.

FISHERMEN'S CONTINGENCY FUND 15-DAY REPORT

OMB Control No.: 0648-0082  
Expiration Date: 05/31/2008

**NOTE: No compensation may be awarded unless a completed application form has been received (Title IV – The Fishermen's Contingency Fund -- of the Outer Continental Shelf Lands Act Amendment of 1978.**

INSTRUCTIONS

1. In order to gain a presumption that the damage or loss for which you will file a FCF claim was caused by an item related to OCS oil and gas activities, you must submit the information required by this form to the National Marine Fisheries Service *within 15 days after the date your vessel first returned to port after discovering such damage or loss*. You may report your damage or loss while at sea by contacting the National Marine Fisheries Service Regional Office by radiotelephone and providing the required information.

2. If you radiotelephone the information to meet the 15-day deadline, you should also confirm the radiotelephone report by sending a completed copy of this form as soon as possible after you return to port to National Marine Fisheries Service, Financial Services Division F/MB5, 1315 East-West Hwy., Rm. 13301, Silver Spring, MD 20910, Phone: (301) 713-2396.

3. Please remember that in addition to this 15-day report, you must also send a *completed claim* to the Financial Services Division, NMFS, at the above address *within 90 days after the damage was first discovered*. Please call or write that office or your regional office if you need advice on how to submit a complete claim.

Privacy Act Statement

Section 3701 © of title 31, United States Code, authorizes collection of this information. This information is part of an application for benefits and is required to obtain those benefits. The primary use of social security numbers or taxpayer identification numbers is to verify the identity of the applicant(s) and to allow preparation of IRS Form 1099s for claim payments as required pursuant to Section 6109 of the Internal Revenue code.

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for review-instructions, searching exiting data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to National Marine Fisheries Service, Financial Services Division, F/MB5, 1315 East West Hwy.,Rm. 13301, Silver Spring, MD 20910.

Confidential name and address information will be released via a NOAA Fisheries website for informational purposes. All other data submitted will be handled as confidential material in accordance with NOAA Administrative Order 216-100, Protection of Confidential Fishery Statistics. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

CORPORATE NAME	TAX IDENTIFICATION NUMBER	
NAME	SOCIAL SECURITY NUMBER	DATE
ADDRESS		PHONE NO.
VESSEL'S NAME		VESSEL NUMBER
LOCATION OF OBSTRUCTION (Use Loran C or the next best available method of position fixing.)		

DESCRIPTION OF THE NATURE OF DAMAGE OR LOSS

DATE AND TIME OF DISCOVERY OF DAMAGE OR LOSS

DATE VESSEL FIRST RETURNED TO PORT (Unless 15-Day Report was made before vessel returned)

REMARKS



**[CITE: 26USC6109]**

TITLE 26--INTERNAL REVENUE CODE

Subtitle F--Procedure and Administration

CHAPTER 61--INFORMATION AND RETURNS

Subchapter B--Miscellaneous Provisions

Sec. 6109. Identifying numbers

(a) Supplying of identifying numbers

When required by regulations prescribed by the Secretary:

(1) Inclusion in returns

Any person required under the authority of this title to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.

(2) Furnishing number to other persons

Any person with respect to whom a return, statement, or other document is required under the authority of this title to be made by another person or whose identifying number is required to be shown on a return of another person shall furnish to such other person such identifying number as may be prescribed for securing his proper identification.

(3) Furnishing number of another person

Any person required under the authority of this title to make a return, statement, or other document with respect to another person shall request from such other person, and shall include in any such return, statement, or other document, such identifying number as may be prescribed for securing proper identification of such other person.

(4) Furnishing identifying number of income tax return preparer

Any return or claim for refund prepared by an income tax return preparer shall bear such identifying number for securing proper identification of such preparer, his employer, or both, as may be prescribed. For purposes of this paragraph, the terms "return" and "claim for refund" have the respective meanings given to such terms by section 6696(e).

For purposes of paragraphs (1), (2), and (3), the identifying number of an individual (or his estate) shall be such individual's social security account number.

(b) Limitation

(1) Except as provided in paragraph (2), a return of any person with respect to his liability for tax, or any statement or other document in support thereof, shall not be considered for purposes of paragraphs (2) and (3) of subsection (a) as a return, statement, or other document with respect to another person.

(2) For purposes of paragraphs (2) and (3) of subsection (a), a return of an estate or trust with respect to its liability for tax, and any statement or other document in support thereof, shall be considered as a return, statement, or other document with respect to each beneficiary of such estate or trust.

(c) Requirement of information

For purposes of this section, the Secretary is authorized to require such information as may be necessary to assign an identifying number to any person.

(d) Use of social security account number

The social security account number issued to an individual for purposes of section 205(c)(2)(A) of the Social Security Act shall, except as shall otherwise be specified under regulations of the Secretary, be used as the

identifying number for such individual for purposes of this title.

[(e) Repealed. Pub. L. 104-188, title I, Sec. 1615(a)(2)(A), Aug. 20, 1996, 110 Stat. 1853]

(f) Access to employer identification numbers by Secretary of Agriculture for purposes of Food Stamp Act of 1977

(1) In general

In the administration of section 9 of the Food Stamp Act of 1977 (7 U.S.C. 2018) involving the determination of the qualifications of applicants under such Act, the Secretary of Agriculture may, subject to this subsection, require each applicant retail store or wholesale food concern to furnish to the Secretary of Agriculture the employer identification number assigned to the store or concern pursuant to this section. The Secretary of Agriculture shall not have access to any such number for any purpose other than the establishment and maintenance of a list of the names and employer identification numbers of the stores and concerns for use in determining those applicants who have been previously sanctioned or convicted under section 12 or 15 of such Act (7 U.S.C. 2021 or 2024).

(2) Sharing of information and safeguards (A) Sharing of information

The Secretary of Agriculture may share any information contained in any list referred to in paragraph (1) with any other agency or instrumentality of the United States which otherwise has access to employer identification numbers in accordance with this section or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subparagraph may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws. (B) Safeguards

The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in subparagraph (A), shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this subsection only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subparagraph (A). The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to subparagraph (A), shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.

(3) Confidentiality and nondisclosure rules

Employer identification numbers that are obtained or maintained pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2) shall be confidential, and no officer or employee of the United States who has or had access to the employer identification numbers shall disclose any such employer identification number obtained thereby in any manner. For purposes of this paragraph, the term ``officer or employee '' includes a former officer or employee.

(4) Sanctions

Paragraphs (1), (2), and (3) of section 7213(a) shall apply with respect to the unauthorized willful disclosure to any person of employer identification numbers maintained pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2) in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) shall apply with respect to the willful offer of any item of material value in exchange for any such employer identification number in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information)

described in such paragraph.

- (g) Access to employer identification numbers by Federal Crop Insurance Corporation for purposes of the Federal Crop Insurance Act

(1) In general

In the administration of section 506 of the Federal Crop Insurance Act, the Federal Crop Insurance Corporation may require each policyholder and each reinsured company to furnish to the insurer or to the Corporation the employer identification number of such policyholder, subject to the requirements of this paragraph. No officer or employee of the Federal Crop Insurance Corporation, or authorized person shall have access to any such number for any purpose other than the establishment of a system of records necessary to the effective administration of such Act. The Manager of the Corporation may require each policyholder to provide to the Manager or authorized person, at such times and in such manner as prescribed by the Manager, the employer identification number of each entity that holds or acquires a substantial beneficial interest in the policyholder. For purposes of this subclause, the term "substantial beneficial interest" means not less than 5 percent of all beneficial interest in the policyholder. The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this paragraph only to officers and employees of the United States or authorized persons whose duties or responsibilities require access for the administration of the Federal Crop Insurance Act.

(2) Confidentiality and nondisclosure rules

Employer identification numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation pursuant to this subsection shall be confidential, and except as authorized by this subsection, no officer or employee of the United States or authorized person who has or had access to such employer identification numbers shall disclose any such employer identification number obtained thereby in any manner. For purposes of this paragraph, the term "officer or employee" includes a former officer or employee. For purposes of this subsection, the term "authorized person" means an officer or employee of an insurer whom the Manager of the Corporation designates by rule, subject to appropriate safeguards including a prohibition against the release of such social security account numbers (other than to the Corporations) by such person.

(3) Sanctions

Paragraphs (1), (2), and (3) of section 7213(a) shall apply with respect to the unauthorized willful disclosure to any person of employer identification numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation pursuant to this subsection in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) shall apply with respect to the willful offer of any item of material value in exchange for any such employer identification number in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

- (h) Identifying information required with respect to certain sellerprovided financing

(1) Payor

If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

(2) Recipient

If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

(3) Furnishing of information between payor and recipient

If any person is required to include the TIN of another person on a return under

paragraph (1) or (2), such other person shall furnish his TIN to such person.

(4) Seller-provided financing

For purposes of this subsection, the term ``seller-provided financing '' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired.

(Added Pub. L. 87-397, Sec. 1(a), Oct. 5, 1961, 75 Stat. 828; amended Pub. L. 94-455, title XII, Secs. 1203(d), 1211(c), title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1691, 1712, 1834; Pub. L. 99-514, title XV, Sec. 1524(a), Oct. 22, 1986, 100 Stat. 2749; Pub. L. 100-485, title VII, Secs. 703(c)(3), 704(a), Oct. 13, 1988, 102 Stat. 2427; Pub. L. 101-508, title XI, Sec. 11112(a), Nov. 5, 1990, 104 Stat. 1388-413; Pub. L. 101-624, title XVII, Sec. 1735(c), title XXII, Sec. 2201(d), Nov. 28, 1990, 104 Stat. 3792, 3953; Pub. L. 102-486, title XIX, Sec. 1933(a), Oct. 24, 1992, 106 Stat. 3031; Pub. L. 103-296, title III, Sec. 316(b), Aug. 15, 1994, 108 Stat. 1532; Pub. L. 103-465, title VII, Sec. 742(b), Dec. 8, 1994, 108 Stat. 5010; Pub. L. 104-188, title I, Secs. 1615(a)(2)(A), 1704(t)(42), Aug. 20, 1996, 110 Stat.

1853, 1889; Pub. L. 105-206, title III, Sec. 3710(a), July 22, 1998, 112 Stat. 779.)

References in Text

Section 205 of the Social Security Act, referred to in subsec. (d), is classified to section 405 of Title 42, The Public Health and Welfare.

The Food Stamp Act of 1977, referred to in subsec. (f), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (Sec. 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Federal Crop Insurance Act, referred to in subsec. (g), is title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, as amended, which is classified generally to chapter 36 (Sec. 1501 et seq.) of Title 7, Agriculture. Section 506 of the Act is classified to section 1506 of Title 7. For complete classification of this Act to the Code, see section 1501 of Title 7 and Tables.

Prior Provisions

A prior section 6109 was renumbered section 6116 of this title.

Amendments

1998--Subsec. (a). Pub. L. 105-206 substituted ``For purposes of paragraphs (1), (2), and (3) '' for ``For purposes of this subsection '' in concluding provisions.

1996--Subsec. (e). Pub. L. 104-188, Sec. 1615(a)(2)(A), struck out subsec. (e) which read as follows:

``(e) Furnishing Number for Dependents.--Any taxpayer who claims an exemption under section 151 for any dependent on a return for any taxable year shall include on such return the identifying number (for purposes of this title) of such dependent. ''

Subsecs. (f), (g). Pub. L. 104-188, Sec. 1704(t)(42), redesignated subsec. (f) relating to access to employer identification numbers for purposes of Federal Crop Insurance Act as subsec. (g).

1994--Subsec. (e). Pub. L. 103-465 substituted ``dependents '' for ``certain dependents '' in heading and amended text generally. Prior to amendment, text read as follows: ``If--

``(1) any taxpayer claims an exemption under section 151 for any dependent on a return for any taxable year, and

``(2) such dependent has attained the age of 1 year before the close of such taxable year,

such taxpayer shall include on such return the identifying number (for purposes of this title) of such dependent. ''

Subsec. (f)(2). Pub. L. 103-296, Sec. 316(b)(1), amended subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977 by adding par. (2) and striking out former par. (2) ``Safeguards '' which read as follows: ``The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to paragraph (1) only to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of the Food Stamp Act of 1977. The Secretary of Agriculture shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the

confidentiality of the employer identification numbers. ''

Subsec. (f)(3). Pub. L. 103-296, Sec. 316(b)(2), amended subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977 by substituting, in par. (3), ``pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph

(2) '' for ``by the Secretary of Agriculture pursuant to this subsection '' and ``employer identification numbers shall disclose '' for ``social security account numbers shall disclose ''.

Subsec. (f)(4). Pub. L. 103-296, Sec. 316(b)(3), amended subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977 by substituting, in par. (4), ``pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2) '' for ``by the Secretary of Agriculture pursuant to this subsection''.

1992--Subsec. (h). Pub. L. 102-486 added subsec. (h).

1990--Subsec. (e)(2). Pub. L. 101-508 substituted ``1 year '' for ``2 years ''.

Subsec. (f). Pub. L. 101-624, Sec. 2201(d), added subsec. (f) relating to access to employer identification numbers for purposes of Federal Crop Insurance Act.

Pub. L. 101-624, Sec. 1735(c), added subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977.

1988--Subsec. (a). Pub. L. 100-485, Sec. 703(c)(3), substituted ``or whose identifying number is required to be shown on a return of another person shall furnish '' for ``shall furnish ''.

Subsec. (e)(2). Pub. L. 100-485, Sec. 704(a), substituted ``age of 2'' for ``age of 5''.

1986--Subsec. (e). Pub. L. 99-514 added subsec. (e).

1976--Subsec. (a). Pub. L. 94-455, Secs. 1203(d), 1906(b)(13)(A), struck out in provisions preceding par. (1) ``or his delegate '' after ``Secretary '' and added par. (4).

Subsec. (d). Pub. L. 94-455, Sec. 1211(c), added subsec. (d).

#### Effective Date of 1998 Amendment

Pub. L. 105-206, title III, Sec. 3710(b), July 22, 1998, 112 Stat. 779, provided that: ``The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [ July 22, 1998] .

#### Effective Date of 1996 Amendment

Amendment by section 1615(a)(2)(A) of Pub. L. 104-188 applicable with respect to returns the due date for which, without regard to extensions, is on or after the 30th day after Aug. 20, 1996, with special rule for 1995 and 1996, see section 1615(d) of Pub. L. 104-188, set out as a note under section 21 of this title.

#### Effective Date of 1994 Amendment

Amendment by Pub. L. 103-465 applicable to returns for taxable years beginning after Dec. 31, 1994, but not applicable to returns for taxable years beginning in 1995 with respect to individuals who are born after Oct. 31, 1995, and to returns for taxable years beginning in 1996 with respect to individuals who are born after Nov. 30, 1996, see section 742(c) of Pub. L. 103-465, set out as a note under section 32 of this title.

#### Effective Date of 1992 Amendment

Section 1933(c) of Pub. L. 102-486 provided that: ``The amendments made by this section [amending this section and section 6724 of this title] shall apply to taxable years beginning after December 31, 1991. ''

#### Effective Date of 1990 Amendments

Amendment by section 1735(c) of Pub. L. 101-624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1781(a) of Pub. L. 101-624, set out as a note under section 2012 of Title 7, Agriculture.

Section 11112(b) of Pub. L. 101-508 provided that: ``The amendment made by subsection (a) [amending this section] shall apply to returns for taxable years

TITLE 43--PUBLIC LANDS

CHAPTER 36--OUTER CONTINENTAL SHELF RESOURCE MANAGEMENT SUBCHAPTER II--FISHERMEN'S

CONTINGENCY FUND Sec. 1841. Definitions

As used in this subchapter, the term--

(1) ``area affected by Outer Continental Shelf activities '' means any geographic area:

- (A) which is under oil or gas lease on the Outer Continental Shelf;
- (B) where Outer Continental Shelf exploration, development or production activities have been permitted, except geophysical activities;
- (C) where pipeline rights-of-way have been granted; or
- (D) otherwise impacted by such activities including but not limited to expired lease areas, relinquished rights-of-way and easements, Outer Continental Shelf supply vessel routes, or other areas as determined by the Secretary;

(2) ``citizen of the United States '' means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State, or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least 75 per centum of the interest of \1\ therein owned by citizens of the United States. Seventy-five per centum of the interest in the corporation shall not be deemed to be owned by citizens of the United States--

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\1\ So in original. The ``of '' is probably unnecessary.  
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(A) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States;

(B) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States;

(C) if through any contract or understanding it is so arranged that more than 25 per centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(D) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

(3) ``commercial fisherman '' means any citizen of the United States who owns, operates, or derives income from being employed on a commercial fishing vessel;

(4) ``commercial fishing vessel '' means any vessel, boat, ship, or other craft which is (A) documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and (B) used for, equipped to be used for, or of a type which is normally used for commercial purposes for the catching, taking, or harvesting of fish or the aiding or assisting of any activity related to the catching, taking, or harvesting of fish, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing;

(5) ``fish '' means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species;

(6) ``fishing gear '' means (A) any commercial fishing vessel, and (B) any equipment of such vessel, whether or not attached to such a vessel;

(7) ``Fund '' means the Fishermen's Contingency Fund established under section 1842 of this title; and

(8) ``Secretary '' means the Secretary of Commerce or the designee of such Secretary.

(Pub.L. 95-372, title IV, Sec. 401, Sept. 18, 1978, 92 Stat. 685; Pub. L. 97-212, Secs. 1, 8, June 30, 1982, 96 Stat. 143, 147.)

Amendments

1982--Pub. L. 97-212 added par. (1), redesignated former pars. (1) to (7) as (2) to (8), respectively, and struck out ``at sea '' after ``the aiding or assisting '' in par. (4)(B) as redesignated.

Effective Date of 1982 Amendment

Section 9 of Pub. L. 97-212 provided that:

``(a) Except as provided for in subsection (b), the amendments made by this Act [amending this section and sections 1842 to 1845 of this title, repealing section 1847 of this title, enacting a provision set out as a note under section 1823 of Title 16, Conservation, and amending a provision set out as a note under section 1823 of Title 16] shall apply with respect to claims for damages

that are filed, on or after the date of the enactment of this Act [June 30, 1982], with the Secretary of Commerce under section 405(a) of the Outer Continental Shelf Lands Act Amendments of 1978 [section 1845(a) of this title].

“(b)(1) Any commercial fisherman who filed a claim with the Secretary of Commerce for compensation under title IV of such amendments of 1978 [this subchapter] before the date of the enactment of this Act [June 30, 1982] may, if no decision on such claim was rendered under section 405(d) of such title IV [section 1845(d) of this title] before such date of enactment [June 30, 1982], refile such claim with the Secretary if the claimant notifies the Secretary in writing within thirty days after notification under paragraph (2) of his eligibility to refile the claim that he intends to so refile. If timely notification of intent to refile is made under the preceding sentence, any action pending with respect to the original claim shall be suspended pending the refiling of the claim under paragraph (2) and, if such refiling is timely made, such action shall be vacated.

“(2) The Secretary shall notify each claimant eligible to refile a claim under paragraph (1) of such eligibility within 10 days after the date of enactment of this Act [June 30, 1982].

“(3) A claim for which notification on intent to refile was timely made under paragraph (1) must be refiled with the Secretary within the thirty-day period after the date on which the regulations promulgated to implement the amendments made by this Act become final or action shall be resumed with respect to such claim without regard to the amendments made by this Act.

“(4) The amendments made by this Act shall apply with respect to any claim that is refiled on a timely basis under paragraph (3).”

#### CHAPTER 36--OUTER CONTINENTAL SHELF RESOURCE MANAGEMENT SUBCHAPTER II--FISHERMEN'S

##### CONTINGENCY FUND Sec. 1842. Fishermen's Contingency Fund

(a) Establishment; availability; source of deposits; limitation on amount; interest-bearing accounts; litigation

(1) There is established in the Treasury of the United States a Fishermen's Contingency Fund. The Fund shall be available to the Secretary without fiscal year limitations as a revolving fund for the purpose of making payments pursuant to this section. The Fund shall consist of--

- (A) revenues received from investments made under paragraph (3);
- (B) amounts collected under subsection (b) of this section; and
- (C) amounts recovered by the Secretary under section 1845(h)(2)

of this title.

The total amount in the Fund that is collected under subsection (b) of this section may at no time exceed \$2,000,000; and the total amount in the Fund which is attributable to revenue received under paragraph (3) or recovered by the Secretary under section 1845(h)(2) of this title

shall be expended prior to amounts collected under subsection (b) of this section. Not more than 8 percent of the total amount in the Fund may be expended in any fiscal year for paying the administrative and personnel expenses referred to in paragraph (2)(A).

(2) The Fund shall be available, as provided for in appropriation Acts solely for the payment of--

- (A) the personnel and administrative expenses incurred in carrying out this subchapter;
- (B) any claim, in accordance with procedures established under this section, for damages that are compensable under this subchapter; and
- (C) attorney and other fees awarded under section 1845(e) of this title with respect to any such claim.

(3) Sums in the Fund that are not currently needed for the purposes of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury or invested in obligations of, or guaranteed by, the United States. Any revenue accruing from such deposits and investments shall be deposited into the Fund.

(4) The Fund may sue and be sued in its own name. All litigation by or against the Fund shall be referred to the Attorney General.

(b) Payments by each holder of lease, permit, easement, or right-of-way

(1) Except as provided in paragraph (2), each holder of a lease that is issued or maintained under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] and each holder of an exploration permit, or an easement or right-of-way for the construction of a pipeline in any area of the Outer Continental Shelf, shall pay an amount specified by the Secretary. The Secretary of the Interior shall collect such amount and deposit it into the Fund. In any calendar year, no holder of a lease, permit, easement, or right-of-way shall be required to pay an amount in excess of \$5,000 per lease, permit, easement, or right-of-way.

(2) Payments may not be required under paragraph (1) by the Secretary of the Interior with respect to geological permits and geophysical permits, other than prelease exploratory drilling permits issued under section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340).

(Pub. L. 95-372, title IV, Sec. 402, Sept. 18, 1978, 92 Stat. 686; Pub. L. 97-212, Sec. 2, June 30, 1982, 96 Stat. 143.)

#### References in Text

The Outer Continental Shelf Lands Act, referred to in subsec. (b)(1), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (Sec. 1331 et seq.) of chapter 29 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of this title and Tables.

#### Amendments

1982--Subsec. (a). Pub. L. 97-212 redesignated subsec. (a) as subsec. (a)(1) and substituted provisions relating to the source of funds, that the total amount of the Fund would not exceed \$2,000,000, that the total amount in the Fund which is attributable to revenue received under par. (3) as amended or recovered by the Secretary under section 1845(h)(2) of this title be expended prior to amounts collected under subsec. (b) as amended, and that not more than 8 percent of the total amount in the Fund be expended in any fiscal year for the paying of administrative and personnel expenses, for provisions that the amounts paid pursuant to former subsecs. (c) and (d) of this section be deposited in the Fund, and that the total amount in the Fund not exceed \$1,000,000, redesignated as subsec. (a)(2) former subsec. (e), and struck out provision that the amounts disbursed for administrative or personnel expenses not exceed 15 percent of the amounts deposited in a revolving account for that fiscal year, added as subsec. (a)(3) provisions that the sums of the Fund be kept on deposit in interestbearing accounts, and added as subsec. (a)(4) provision that all litigation be referred to the Attorney General.

Subsec. (b). Pub. L. 97-212 redesignated as subsec. (b)(1) provisions of former subsec. (c) and added as subsec. (b)(2) provision that payments not be required under par. (1) by the Secretary of the Interior with respect to geological and geophysical permits other than prelease exploratory drilling permits issued under section 1340 of this title. Former subsec. (b) relating to the establishment and maintenance of an area account within the Fund was struck out.

Subsec. (c). Pub. L. 97-212 redesignated subsec. (c) as (b)(1). Subsec. (d). Pub. L. 97-212 struck out subsec. (d) which related to level of area account funds.

Subsec. (e). Pub. L. 97-212 redesignated subsec. (e) as (a)(2).

#### Effective Date of 1982 Amendment

Amendment by Pub. L. 97-212 applicable with respect to claims for damages filed on or after June 30, 1982, with the Secretary of Commerce under section 1845(a) of this title, with provision for the refiling of previously filed claims under certain circumstances, see section 9 of Pub. L. 97-212, set out as a note under section 1841 of this title.

#### CHAPTER 36--OUTER CONTINENTAL SHELF RESOURCE MANAGEMENT SUBCHAPTER II--FISHERMEN'S CONTINGENCY FUND Sec. 1843. Duties and powers of Secretary

- (a) Prescription and amendment of regulations respecting settlement of claims; identification classification of potential hazards to commercial fishing

In carrying out the provisions of this subchapter, the Secretary shall--

(1) prescribe, and from time to time amend, regulations for the filing, processing, and fair and expeditious settlement of claims pursuant to this subchapter, including a time limitation of not less than 90 days on the filing of such claims (except that, notwithstanding any other provision of law, final regulations implementing the 1981 amendments to this subchapter shall be published in the Federal Register within 120 days after the date of the enactment of such amendments); and

(2) identify and classify all potential hazards to commercial fishing caused by Outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface.

- (b) Establishment of regulations respecting color coding, stamping, or labeling of equipment, tools, etc., used on Outer Continental Shelf

The Secretary of the Interior shall establish regulations requiring all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly color coded, stamped, or labeled, wherever practicable, with the owner's identification prior to actual use.

- (c) Disbursement of payments to compensate commercial fishermen; restrictions

(1) Payments shall be disbursed by the Secretary from the Fund to compensate commercial fishermen for actual and consequential damages, including resulting economic loss, due to damages to, or loss of, fishing gear by materials, equipment, tools, containers, or other items associated with Outer Continental Shelf oil and gas exploration, development, or production activities. The compensation payable under this section for resulting economic loss shall be an amount equal to 50 per centum of such loss. For purposes of this subsection, the term "resulting economic loss" means the gross income, as estimated by the Secretary, that a commercial fisherman who is eligible for compensation under this section will lose by reason of not being able to engage in fishing, or having to reduce his fishing effort, during the period before the damaged or lost fishing gear concerned is repaired or replaced and available for use.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, no payment may be made by the Secretary from the Fund--

(A) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim;

(B) if the damage set forth in the claim was sustained prior to September 18, 1978;

(C) in the case of a claim for damage to, or loss of, fishing gear, in an amount in excess of the replacement value of the fishing gear with respect to which the claim is filed; and

(D) for any portion of the damages claimed with respect to which the claimant has



received, or will receive, compensation from insurance.

(Pub.L.95-372,title IV, Sec.403, Sept. 18, 1978, 92 Stat. 687; Pub.L.96-561,title II, Sec. 240(b)(2), Dec.22,1980,94 96 Stat. 144, 147; Pub. L. 98-498, Stat. 3301; Pub.L.97-212,Secs.3,7,June 30, 1982, title IV, Sec.420(1), (2), Oct. 19, 1984, 98 Stat. 2309.)

#### References in Text

The 1981 amendments to this subchapter, referred to in subsec. (a)(1), probably means the amendments made to this subchapter in 1982 by Pub. L. 97-212, which amended sections 1841 to 1845 of this title, repealed section 1847 of this title, and enacted a provision set out as a note under section 1841 of this title. Pub. L. 97-212 also enacted a provision set out as a note under section 1823 of Title 16, Conservation, and amended a provision set out as a note under section 1823 of Title 16.

The date of enactment of such amendments, referred to in subsec. (a)(1), probably means the date of enactment of Pub. L. 97-212, which was approved June 30, 1962.

#### Amendments

1984--Subsec. (a)(1). Pub. L. 98-498 substituted ``limitation of not less than 90 days on '' for ``limitation on ''.

Subsec. (c)(1). Pub. L. 98-498 substituted ``50 percent '' for ``25 per centum''.

1982--Subsec. (a)(1). Pub. L. 97-212, Sec. 7, substituted ``claims (except that, notwithstanding any other provision of law, final regulations implementing the 1981 amendments to this subchapter shall be published in the Federal Register within 120 days after the date of the enactment of such amendments); and '' for ``claims; and ''.

Subsec. (c)(1). Pub. L. 97-212, Sec. 3(1), substituted ``Fund '' for ``appropriate area account '' and ``resulting economic loss '' for ``loss of profits '', inserted ``Outer Continental Shelf '' after ``items associated with '', struck out ``in such area, whether or not such damage occurred in such area '' after ``production activities '', and inserted provisions that compensation payable under this section for resulting economic loss be an amount equal to 25 per centum of such loss and provision defining ``resulting economic loss '' for purposes of subsec. (c) .

Subsec. (c)(2). Pub. L. 97-212, Sec. 3(2), substituted ``the Fund '' for ``any area account established under this subchapter '' in provisions preceding subpar. (A), struck out subpars. (A) and (E) which related, respectively, to damage caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party and the party admitted responsibility and to loss of profits for any period in excess of 6 months unless such claim was supported by records with respect to the claimant's profits during the previous 12-month period, redesignated subpars. (B), (C), and (D) as (A), (B), and (C) respectively, redesignated subpar. (F) as (D), and in subpar. (D) as so redesignated, substituted ``received, or will receive, '' for ``or will receive ''.

1980--Subsec. (c)(2)(A). Pub. L. 96-561 inserted reference to party admitting responsibility.

#### Effective Date of 1982 Amendment

Amendment by Pub. L. 97-212 applicable with respect to claims for damages filed on or after June 30, 1982, with the Secretary of Commerce under section 1845(a) of this title, with provision for the refiling of previously filed claims under certain circumstances, see section 9 of Pub. L. 97-212, set out as a note under section 1841 of this title.

#### CHAPTER 36--OUTER CONTINENTAL SHELF RESOURCE MANAGEMENT SUBCHAPTER II--FISHERMEN'S CONTINGENCY FUND Sec. 1844. Burden of proof

With respect to any claim for damages filed under this subchapter, there shall be a presumption that such damages were due to activities related to oil and gas exploration, development, or production if the claimant establishes that--

(1) the commercial fishing vessel was being used for fishing and was located in an area affected by Outer Continental Shelf activities;

(2) a report on the location of the material, equipment, tool, container, or other item which caused such damages and the nature of such damages was made within fifteen days after the date on which the vessel first returns to a port after discovering such damages;

(3) there was no record on the latest nautical charts or Notice to Mariners in effect at least 15 days prior to the date such damages were sustained that such material, equipment, tool, container, or other item existed where such damages occurred, except that in the case of damages caused by a pipeline, the presumption established by this section shall obtain whether or not there was any such record of the pipeline on the damage date; and

(4) there was no proper surface marker or lighted buoy which was attached or closely anchored to such material, equipment, tool, container, or other item.

(Pub. L. 95-372, title IV, Sec. 404, Sept. 18, 1978, 92 Stat. 688; Pub. L. 97-212, Sec. 4, June 30, 1982, 96 Stat. 145.)

#### Amendments

1982--Pub. L. 97-212, Sec. 4(1), substituted ``under this subchapter '' for ``pursuant to this subchapter '' and ``damages were due to activities related to oil and gas exploration, development, or production '' for ``claim is valid '' in provisions preceding par. (1).

Par. (2). Pub. L. 97-212, Sec. 4(2), substituted ``fifteen days after the date on which the vessel first returns to a port after discovering such damages '' for ``five days after the date on which such damages were discovered ''.

Par. (3). Pub. L. 97-212, Sec. 4(3), inserted ``the latest '' after ``no record on '', struck out ``the '' before ``Notice to Mariners '', and substituted ``in effect at least 15 days prior to the date '' for ``on the date '' and ``where such damages occurred, except that in the case of damages caused by a pipeline, the presumption established by this section shall obtain

whether or not there was any such record of the pipeline on the damage date '' for ``in such area ''.

Effective Date of 1982 Amendment

Amendment by Pub. L. 97-212 applicable with respect to claims for damages filed on or after June 30, 1982, with the Secretary of Commerce under section 1845(a) of this title, with provision for the refiling of previously filed claims under certain circumstances, see section 9 of Pub. L. 97-212, set out as a note under section 1841 of this title.

CHAPTER 36--OUTER CONTINENTAL SHELF RESOURCE MANAGEMENT SUBCHAPTER II--FISHERMEN'S CONTINGENCY FUND Sec. 1845. Claims procedure

(a) Filing requirement; time to file

Any commercial fisherman suffering damages compensable under this subchapter may file a claim for compensation with the Secretary under subsection (d)(1) of this section.

(b) Transmittal of copy of claim to Secretary of the Interior; reference to Secretary

Upon receipt of any claim under this section, the Secretary shall transmit a copy of the claim to the Secretary of the Interior and shall take such further action regarding the claim that is required under subsection (d) of this section.

(c) Notification to persons engaged in activities associated with Outer Continental Shelf energy activities; response of persons notified; submittal of evidence

The Secretary of the Interior shall make reasonable efforts to notify all persons known to have engaged in activities associated with Outer Continental Shelf energy activity in the vicinity. Each such person shall promptly notify the Secretary and the Secretary of the Interior as to whether he admits or denies responsibility for the damages claimed. Any such person, including lessees or permittees or their contractors or subcontractors, may submit evidence at any proceeding conducted with respect to such claim.

(d) Acceptance of claim by Secretary; time to render decision; review of initial determination

(1) The Secretary shall, under regulations prescribed pursuant to section 1843(a) of this title, specify the time, form and manner in which claims must be filed.

(2) The Secretary may not accept any claim that does not meet the filing requirements specified under paragraph (1), and shall give a claimant whose claim is not accepted written notice of the reasons for nonacceptance. Such written notice must be given to the claimant within 30 days after the date on which the claim was filed and if the claimant does not refile an acceptable claim within 30 days after the date of such written notice, the claimant is not eligible for compensation under this subchapter for the damages concerned; except that the Secretary--

(A) shall in any case involving a good faith effort by the claimant to meet such filing requirements, or

(B) may in any case involving extenuating circumstances, accept a claim that does not meet the 30-day refiling requirement.

(3)(A) The Secretary shall make an initial determination with respect to the claim within 60 days after the day on which the claim is accepted for filing. Within 30 days after the day on which the Secretary issues an initial determination on a claim, the claimant, or any other interested person who submitted evidence relating to the initial determination, may petition the Secretary for a review of that determination.

(B) If a petition for the review of an initial determination is not filed with the Secretary within the 30-day period provided under subparagraph (A), the initial determination shall thereafter be treated as a final determination by the Secretary on the claim involved.

(C) If a petition for review of an initial determination is timely filed under subparagraph (A), the Secretary shall allow the petitioner 30 days after the day on which the petition is received to submit written or oral evidence relating to the initial determination. The Secretary shall then undertake such review and, on the basis of such review, issue a final determination no later than the 60th day after the day on which the Secretary received the petition for review of an initial determination.

(e) Claim preparation fees; attorney's fees

If the decision of the Secretary under subsection (d) of this section is in favor of the commercial fisherman filing the claim, the Secretary, as a part of the amount awarded, shall include reasonable claim preparation fees and reasonable attorney's fees, if any, incurred by the claimant in pursuing the claim.

(f) Powers of Secretary

(1) For purposes of any proceeding conducted pursuant to this section, the Secretary shall have the power to administer oaths and subpoena the attendance or testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

(2) In any proceeding conducted pursuant to this section with respect to a claim for damages resulting from activities on any area of the Outer Continental Shelf, the Secretary shall consider evidence of obstructions in such area which have been identified pursuant to the survey

conducted under section 1847 \1\ of this title.

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\1\ See References in Text note below.  
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(g) Place of proceeding

Any proceeding conducted with respect to an initial determination on a claim under subsection (d)(3)(A) of this section shall be conducted within such United States judicial district as may be mutually agreeable to the claimant and the Secretary or, if no agreement can be reached, within the United States judicial district in which the home port of the claimant is located.

(h) Certification and disbursement of award; subrogation of rights; payment of costs of proceedings

(1) The amount awarded in an initial determination by the Secretary under subsection (d) of this section shall be immediately disbursed, subject to the limitations of this section, by the Secretary if the claimant--

(A) states in writing that he will not petition for review of the initial determination; and

(B) enters into an agreement with the Secretary to repay to the Secretary all or any part of the amount of the award if, after review under subsection (d)(3)(C) of this section or, if applicable, after judicial review, the amount of the award, or any part thereof, is not sustained.

(2) Upon payment of a claim by the Secretary pursuant to this subsection, the Secretary shall acquire by subrogation all rights of the claimant against any person found to be responsible for the damages with respect to which such claim was made. Any moneys recovered by the Secretary through subrogation shall be deposited into the Fund.

(3) Any person who denies responsibility for damages with respect to which a claim is made and who is subsequently \2\ found to be responsible for such damages, and any commercial fisherman who files a claim for damages and who is subsequently found to be responsible for such damages, shall pay the costs of the proceedings under this section with respect to such claim.

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\2\ So in original. Probably should be ``subsequently ''.  
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(i) Judicial review

Any claimant or other person who suffers a legal wrong or who is adversely affected or aggrieved by a final determination of the Secretary under subsection (d) of this section, may, no later than 30 days after such determination is made, seek judicial review of the determination in the United States district court for such United States judicial district as may be mutually agreeable to the parties concerned or, if no agreement can be reached, in the United States district court for the United States judicial district in which is located the home port of the claimant.

(Pub. L. 95-372, title IV, Sec. 405, Sept. 18, 1978, 92 Stat. 688; Pub. L. 97-212, Sec. 5, June 30, 1982, 96 Stat. 145; Pub. L. 98-498, title IV, Sec. 420(3), (4), Oct. 19, 1984, 98 Stat. 2309, 2310.)

References in Text

Section 1847 of this title, referred to in subsec. (f)(2), was repealed by Pub. L. 97-212, Sec. 6(a), June 30, 1982, 96 Stat. 147.

Amendments

1984--Subsec. (a). Pub. L. 98-498 substituted ``under subsection (d)(1) of this section '' for ``, except that no such claim may be filed more than 60 days after the date of discovery of the damages with respect to which such claim is made ''.

Subsec. (d) (1) . Pub. L. 98-498 inserted ``time, '' before ``form''.

1982--Subsec. (b). Pub. L. 97-212, Sec. 5(1), struck out pars. (1) and (2) designations, and substituted ``shall take such further action regarding the claim that is required under subsection (d) of this section '' for ``refer such matter to a hearing examiner appointed under section 3105 of title 5''.

Subsec. (c). Pub. L. 97-212, Sec. 5(2), substituted ``proceeding '' for ``hearing''.

Subsec. (d). Pub. L. 97-212, Sec. 5(3), substituted provisions relating to the filing of claims with the Secretary of the Interior in order to be eligible for compensation under this subchapter, the time for such filing, the time in which the Secretary must make his initial determination with respect to the claim, and the submission of evidence by the petitioner when reviewing an initial determination by the Secretary, for provisions relating to the time in which a hearing examiner has to render a decision.

Subsec. (e). Pub. L. 97-212, Sec. 5(4), substituted provisions that if the decision of the Secretary is in favor of the commercial fisherman filing the claim, the Secretary shall award to such claimant reasonable attorney's fees and claim preparation fees incurred by claimant in pursuing such claim for provisions that upon a decision in favor of the claimant fisherman, the hearing examiner include in the award reasonable attorney's fees incurred by the claimant in pursuing such claim.

Subsec. (f). Pub. L. 97-212, Sec. 5(5), substituted ``the Secretary '' for ``hearing examiner '' and ``proceeding '' for ``hearing '' wherever appearing. The amendment which directed the substitution of ``the Secretary '' for ``hearing examiner '' was executed by substituting ``the Secretary '' for ``the hearing examiner '', as the probable intent of Congress, to avoid repeating

the article ``the '' before ``Secretary '' in two places.

Subsec. (g). Pub. L. 97-212, Sec. 5(6), substituted ``Any proceeding conducted with respect to an initial determination on a claim under subsection (d)(3)(A) of this section shall be conducted within such United States judicial district as may be mutually agreeable to the claimant and the Secretary or, if no agreement can be reached, within the United States judicial district in which the home port of the claimant is located '' for ``A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district ''.

Subsec. (h)(1). Pub. L. 97-212, Sec. 5(7)(A), substituted provisions that the amount awarded in an initial determination by the Secretary under subsec. (d) be immediately disbursed by the Secretary if the claimant states in writing that he will not petition for review of the initial determination and he enters into an agreement with the Secretary to repay to the Secretary all or any part of the award that is not sustained upon later judicial review for provisions that upon a decision of the hearing examiner and in absence of judicial review, any amount to be paid would be certified to the Secretary who would promptly disburse the award and that such decision of the hearing examiner was not reviewable by the Secretary.

Subsec. (h)(2). Pub. L. 97-212, Sec. 5(7)(B), inserted provision that any moneys recovered by the Secretary through subrogation shall be deposited into the Fund.

Subsec. (i). Pub. L. 97-212, Sec. 5(8), substituted ``Any claimant or other person who suffers a legal wrong or who is adversely affected or aggrieved by a final determination of the Secretary under subsection (d) of this section, may, no later than 30 days after such determination is made, seek judicial review of the determination in the United States district court for such United States judicial district as may be mutually agreeable to the parties concerned or, if no agreement can be reached, in the United States district court for the United States judicial district in which is located the home port of the claimant '' for ``Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than 60 days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit''.

#### Effective Date of 1982 Amendment

Amendment by Pub. L. 97-212 applicable with respect to claims for damages filed on or after June 30, 1982, with the Secretary of Commerce under section 1845(a) of this title, with provision for the refiling of previously filed claims under certain circumstances, see section 9 of Pub. L. 97-212, set out as a note under section 1841 of this title.

#### Compensation for Certain Fishing Vessel and Gear Damage; Application

Authority to owners or operators of fishing vessels and commercial fishermen failing to make application for compensation within the time limitations of this section or section 1980 of Title 22, Foreign Relations and Intercourse, to make application for compensation within the 60-day period beginning on Dec. 22, 1980, see section 240(a), (b)(1) of Pub. L. 96-561, title II, Dec. 22, 1980, 94 Stat. 3300, set out as a note under section 1980 of Title 22.

#### CHAPTER 36--OUTER CONTINENTAL SHELF RESOURCE MANAGEMENT SUBCHAPTER II--FISHERMEN'S CONTINGENCY FUND

Sec. 1846. Repealed. Pub. L. 104-66, title I, Sec. 1021(f), Dec. 21, 1995, 109 Stat. 713

Section, Pub. L. 95-372, title IV, Sec. 406, Sept. 18, 1978, 92 Stat. 689, directed Secretary to submit annual reports to Congress setting forth Fishermen's Contingency Fund damage descriptions and compensation amounts and, in first annual report, to evaluate feasibility of (1) fine or penalty impositions, or (2) bonding requirements.

beginning after December 31, 1990. ''

Effective Date of 1988 Amendment

Amendment by section 703(c)(3) of Pub. L. 100-485 applicable to taxable years beginning after Dec. 31, 1988, see section 703(d) of Pub. L. 100-485, set out as a note under section 21 of this title.

Section 704(b) of Pub. L. 100-485 provided that: ``The amendment made by subsection (a) [amending this section] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989. ''

Effective Date of 1986 Amendment

Section 1524(c) of Pub. L. 99-514 provided that: ``The amendments made by this section [amending this section and section 6676 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1987. ''

Effective Date

Section 1(d) of Pub. L. 87-397, as amended by Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ``Paragraph (1) of section 6109(a) of the Internal Revenue Code of 1986 [formerly I.R.C.

1954], as added by subsection (a) of this section, shall apply only in respect of returns, statements, and other documents relating to periods commencing after December 31, 1961. Paragraphs (2) and (3) of such section 6109(a) shall apply only in respect of returns, statements, or other documents relating to periods commencing after December 31, 1962 . ''

## 50 C.F.R. PART 296—FISHERMEN'S CONTINGENCY FUND

Title 50 - Wildlife and Fisheries

### Title 50: Wildlife and Fisheries

#### PART 296—FISHERMEN'S CONTINGENCY FUND

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**Authority:** Pub. L. 97–212 (43 U.S.C. 1841 et seq.).

**Source:** 47 FR 49600, Nov. 1, 1982, unless otherwise noted.

##### § 296.1 Purpose.

These regulations implement title IV of the Outer Continental Shelf Lands Act Amendments of 1978, as amended (title IV). Title IV establishes a Fishermen's Contingency Fund to compensate commercial fishermen for damage or loss caused by obstructions associated with oil and gas activities on the Outer Continental Shelf.

##### § 296.2 Definitions.

*Area affected by Outer Continental Shelf activities* means the area within a 3-mile radius of any casualty site which:

- (1) Includes any portion of a leased block, pipeline, easement, right of way, or other OCS oil and gas exploration, development, or production activity; or
- (2) Is otherwise associated (as determined by the Chief, Financial Services Division) with OCS oil and gas activities, such as, for example, expired lease areas, relinquished rights-of-way or easements, and areas used extensively by surface vessels supporting OCS oil and gas activities (areas landward of the OCS are included when such areas meet this criterion).

*Chief, FSD* means Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; telephone: (301) 713–2396.

*Citizen of the United States* means any person who is a United States citizen, any State, or any corporation, partnership, or association organized under the laws of any state which meets the requirements for documenting vessels in the U.S. coastwise trade.

*Commercial fisherman* means any citizen of the United States who owns, operates, or is employed on a commercial fishing vessel.

*Commercial fishing vessel* means any marine craft which is documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and used for commercial fishing or activities directly related to commercial fishing.

*Easement* means a right of use or easement granted under 30 CFR 250.18.

*Fish* means all forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

*Fishing gear* means any commercial fishing vessel, and any equipment of such vessel.

*Fund* means the Fishermen's Contingency Fund established by title IV of the Outer Continental Shelf Lands Act Amendments of 1978.

*Holder* means the owner of record of each lease, prelease exploratory drilling permit, easement, or right-of-way or any agent or assignee of an owner.

*Lease* means any authority under section 8 or section 6 of the OCS Lands Act to develop and produce or explore for oil or gas.

*Negligence or fault* includes, but is not limited to, failure to:

- (1) Remain outside of any navigation safety zone established around oil and gas rigs and platforms by any responsible Federal agency;
- (2) Avoid obstructions recorded on nautical charts or in the Notice to Mariners or marked by a buoy or other surface marker (casualties occurring within a one-quarter mile radius of obstructions so recorded or marked are presumed to involve negligence or fault of the claimant);
- (3) Abide by established rules of the road;
- (4) Use proper care; or
- (5) Use due care and diligence to mitigate the damage or loss.

*Outer Continental Shelf* means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in 43 U.S.C. section 1301, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control. Generally, but not in all cases, this includes all submerged lands lying seaward of the territorial sea (3 miles from a State's coastline, or 9 miles from the coast of Texas or Florida).

*Person* means an individual, partnership, corporation, association, public or private organization, government, or other entity.

*Resulting Economic Loss* means the gross income, as estimated by the Chief, FSD, that a claimant will lose because of not being able to fish, or having to reduce fishing effort, during the period before the damaged or lost fishing gear concerned is repaired or replaced and available for use. This period must be reasonable. This period begins on the date of the casualty and stops on the date the damage could reasonably have been remedied by repair or replacement.

*Right-of-way* means any right-of-way granted under section 5(e) of the OCS Lands Act or under 43 CFR 3340.0-5.

*Secretary* means the Secretary of Commerce or his designee.

[47 FR 49600, Nov. 1, 1982, as amended at 61 FR 6322, Feb. 20, 1996]

### **§ 296.3 Fishermen's contingency fund.**

(a) *General.* There is established in the Treasury of the United States the Fishermen's Contingency Fund. The Fund is available without fiscal year limitation as a revolving fund to carry out the purposes of title IV of the Outer Continental Shelf Lands Act Amendments of 1978, as amended.

(b) *Payments into the fund.* Each Holder of an exploration permit, lease, easement, or rights-of-way for the construction of a pipeline, or a prelease exploration drilling permit issued or maintained under the Outer Continental Shelf Lands Act, in effect on or after June 30, 1982, shall pay assessments to the Fund. All pipeline right-of-way and easements are to be included for assessment except those constructed and operated lines within the confines of a single lease or group of contiguous leases under unitized operation or single operator. Payments will not be required for geological or geophysical permits, other than prelease exploratory drilling permits issued under section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340).

(1) *Assessments to maintain the fund.* When the total amount in the Fund is less than the Chief, FSD, determines is needed to pay Fund claims and expenses, the Chief, FSD, will notify the Secretary of the Interior that additional assessments are needed.

(2) *Biling and collections.* The Secretary of the Interior will calculate the amounts to be paid by each Holder and shall notify each Holder of the dollar amount and the time and place for all payments. Each assessment shall be paid to the Secretary of the Interior no later than 45 days after the Secretary of the Interior sends notice of the assessment.

(3) *Annual assessment limits.* No Holder shall be required to pay in excess of \$5,000 for any lease, permit, easement or right-of-way in any calendar year.

(c) *Moneys recovered through subrogation.* Any moneys recovered by the Secretary through the subrogation of a claimant's rights shall be deposited into the Fund.

(d) *Investments of the fund.* Excess sums in the Fund will be invested in obligations of, or guaranteed by, the United States. Revenue from such investments shall be deposited in the Fund.

(e) *Litigation.* The Fund may sue and be sued in its own name.

### **§ 296.4 Claims eligible for compensation.**

(a) *Claimants.* Damage or loss eligible for Fund compensation must be suffered by a commercial fisherman.

(b) *Damage or loss of fishing gear.* Damage or loss is eligible for Fund compensation if it was caused by materials, equipment, tools, containers, or other items associated with OCS oil and gas exploration, development, or production activities. Damage or loss may be eligible for compensation even though it did not occur in OCS waters if the item causing the damage or loss was associated with oil and gas exploration, development, or production activities in OCS waters.

(c) *Exceptions.* Damage or loss is not eligible for Fund compensation:

- (1) If the damage or loss was caused by the negligence or fault of the claimant;
- (2) If the damage or loss occurred prior to September 18, 1978;
- (3) To the extent that damage or loss exceeds the replacement value of the fishing gear involved;
- (4) For any portion of the damage or loss which can be compensated by insurance;
- (5) If the claim is not filed within 90 calendar days of the date the claimant or the claimant's agent first became aware of the damage or loss (or such longer period as the Secretary may allow under unusual and extenuating circumstances); or
- (6) If the damage or loss was caused by an obstruction unrelated to OCS oil and gas exploration, development, or production activities.

[47 FR 49600, Nov. 1, 1982, as amended at 50 FR 13796, Apr. 8, 1985; 61 FR 6322, Feb. 20, 1996]

### **§ 296.5 Instructions for filing claims.**

(a) *Fifteen-day report required to gain presumption of causation—(1) General.* Damages or losses are presumed to be qualified for compensation if certain requirements are satisfied. One requirement is that a report must be made to NMFS within fifteen (15) days after the date on which the vessel first returns to a port after discovering the damage or loss. Filing of a fifteen-day report must be followed up by filing a detailed claim.

(2) *When and how to file a fifteen-day report.* To qualify for the presumption of causation, a fifteen-day report must be made to NMFS within fifteen days after the date on which the vessel first returns to a port after discovering the damage or loss. Satisfaction of the fifteen-day requirement is determined by the postmark, if the report is mailed; by the date of a call, if the report is telephoned or radiotelephoned; or, by the date of appearance, if the report is made in person. The fifteen-day report must be made to the Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; telephone: (301) 713-2396.

(3) *Contents of fifteen-day report.* Each fifteen-day report must include the following information:

- (i) The claimant's name and address;
- (ii) The name of the commercial fishing vessel involved;
- (iii) The location of the obstruction which caused the damage or loss;
- (iv) A description of the nature of the damage or loss;
- (v) The date such damage or loss was discovered;
- (vi) If the fifteen-day report is made after the vessel returns to port, the date on which the vessel first returned to port after discovering the damage.

(b) *Form of claim.* Claims must be in writing. Claims may be submitted on NOAA form 88-164. This form may be obtained from any NMFS regional office or from the Chief, FSD. Although claimants are not required to use this claim form, it will probably be to their benefit to do so.

(c) *Who must file and when and where to file claims.* All claimants (including those who filed 15-day reports to gain the presumption of causation) must submit a claim application to the Chief, Financial Services Division, within 90 calendar days of the date the claimant or the claimant's agent first became aware of the damage or loss. The Chief, FSD, may allow a longer period for filing claims if, in his discretion, unusual and extenuating circumstances justify a longer period. The term "filed" means delivered in person, or mailed (as determined by the date of the postmark) to the Chief, Financial Services Division, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Washington, DC 20235. The Chief, FSD, suggests that mailed claims be sent by registered or certified mail, return receipt requested, so the claimant will have a record that the claim was received by the Chief, FSD.

(d) *Aggregating claims.* If more than one commercial fisherman suffers loss or damage from the same incident (for example, when several members of the crew lost income due to loss of fishing time), all claims should be submitted on their behalf by the owner or operator of the commercial fishing vessel involved.

(e) *Contents of claim.* Each claim must be signed by the claimant and must accurately and completely provide the following information:

- (1) The name, mailing address, telephone number, citizenship, and occupational status (for example, vessel owner, operator, or crew member) of each claimant;
- (2) The name and Coast Guard documentation number or State registration number of the commercial fishing vessel involved in the damage or loss;
- (3) The home port, type, and size of the vessel involved in the casualty;
- (4) A full statement of the circumstances of the damage or loss including:



- (i) The date when the casualty was first discovered by the claimant,
  - (ii) The water depth (if known) and visibility at the time and location where the casualty occurred,
  - (iii) The direction, speed, and activities of the claimant's vessel immediately before, during, and after the casualty (including a full description of both the deployment of any fishing gear which is the subject of the claim and all attempts at retrieval of the gear),
  - (iv) The names and addresses of all witnesses to the casualty,
  - (v) The location where the casualty occurred in Loran C coordinates or the next most accurate method of position fixing available to the claimant,
  - (vi) A description of the item or obstruction (if sighted or recovered) which caused the casualty, and whether or not any surface markers were attached to or near the obstruction. Submit any available photographs of the item or obstruction. State reasons for believing the obstruction is associated with OCS oil and gas activities.
- (5) The amount claimed for property damage or loss and a full statement of the type and extent of damage or loss including:
- (i) An inventory of all components of fishing gear damaged or lost,
  - (ii) The date, place, and cost of acquisition of all fishing gear damaged or lost and proof of its purchase (sales receipts, affidavits, or other evidence),
  - (iii) One estimate from a commercial fishing gear repair or supply company of the present replacement or repair (whichever applies) cost of the damaged or lost fishing gear. If the gear will be repaired by the claimant himself, a detailed estimate by the claimant identifying the repair cost.
- (6) The amount claimed for economic loss and the basis for that amount with supporting documentation, as follows:
- (i) Trip tickets for the three vessel trips immediately before the trip during which the casualty was discovered and for the vessel trip immediately following the trip during which the casualty occurred.
  - (ii) A statement of the amount of time involved on each of the vessel trips above (or if the casualty involves fixed gear, a statement of the number of gear units deployed on each of these trips).
  - (iii) A statement of the amount of time lost from fishing because of the damage or loss and a full explanation of why this time period is reasonable.
  - (iv) Documentation of the date replacement gear was ordered and received or the date gear repair began and ended. This documentation may consist of purchase orders, bills of lading, or statements from sellers or repairers.
- (7) The amount claimed for other consequential loss or costs (including fees for claim preparation, etc.) with suitable documentation of the amounts claimed (such as invoices, receipts, etc.).

[47 FR 49600, Nov. 1, 1982, as amended at 50 FR 13796, Apr. 8, 1985; 53 FR 24645, June 29, 1988; 61 FR 6322, Feb. 20, 1996]

#### **§ 296.6 NMFS processing of claims.**

(a) *Action by NMFS.* Upon receipt of a claim, the Chief, FSD, will:

- (1) Send an abstract of the claim to the Secretary of the Interior;
- (2) Send the reported location of any obstruction which was not recovered and retained to the National Ocean Survey, which will inform the Defense Mapping Agency Hydrographic/Topographic Center.

(b) *Actions by the Interior Department.* Upon receipt of an abstract of a claim, the Interior Department will immediately:

- (1) Plot the casualty site, and advise NMFS whether the site is in an area affected by OCS activities;
- (2) make reasonable efforts to notify all persons known to have engaged in activities associated with OCS energy activity in the vicinity where the damage or loss occurred.

(c) *Responses to notice of claim.* (1) Each person notified by the Interior Department will, within thirty days after receipt of the notice, advise the Chief, FSD, and the Interior Department whether he admits or denies responsibility for the damages claimed.

(2) Each person notified by the Interior Department who fails to give timely and proper advice of admission or denial of responsibility shall be presumed to deny responsibility for the damages claimed.

(3) If any person admits responsibility, the Chief, FSD, will initiate action to recover from that party any sums paid or to be paid for the claimed damages.

(4) Any person referred to in this section, including lessees or permittees or their contractors or subcontractors, may submit evidence about any claim to the Chief, FSD.

(d) *Failure to meet filing requirements.* The Chief, FSD, may reject any claim that does not meet the filing requirements. The Chief, FSD, will give a claimant whose claim is rejected written notice of the reasons for rejection within 30 days after the date on which the claim was filed. If the claimant does not refile an acceptable claim within 30 days after the date of

this written notice, the claimant is not eligible for Fund compensation unless there are extenuating circumstances.

(e) *Proceedings—(1) Location.* Any required proceeding will be conducted within such United States judicial district as may be mutually agreeable to the claimant and the Assistant Administrator, NMFS, or his designee, or if no agreement can be reached, within the United States judicial district in which the claimant's home port is located.

(2) *Powers.* For purposes of any proceeding, the Assistant Administrator, NMFS, or his designee, shall have the power to administer oaths and subpoena witnesses and the production of books, records, and other evidence relative to the issues involved.

(3) *Amendments to claims.* A claimant may amend the claim at any time before the Chief, FSD, issues an initial determination.

(4) *Criminal penalty for fraudulent claims.* Any person who files a fraudulent claim is subject to prosecution under 18 U.S.C. sections 287 and 1001, each of which, upon conviction, imposes a penalty of not more than a \$10,000 fine and 5 years' imprisonment, or both.

[47 FR 49600, Nov. 1, 1982, as amended at 61 FR 6322, Feb. 20, 1996]

#### **§ 296.7 Burden of proof and presumption of causation.**

(a) *Burden of proof.* The claimant has the burden to establish, by a preponderance of the evidence, all facts necessary to qualify his claim, including:

(1) The identity or nature of the item which caused the damage or loss; and

(2) That the item is associated with oil and gas exploration, development, or production activities on the Outer Continental Shelf.

(b) *Presumption of causation.* Notwithstanding the above, damages or losses are presumed to be caused by items associated with oil and gas exploration, development, or production activities on the OCS if the claimant establishes that:

(1) The claimant's commercial fishing vessel was being used for commercial fishing and was located in an area affected by OCS oil and gas exploration, development, or production activities;

(2) A report on the location of the obstruction which caused such damage or loss, and the nature of such damage or loss, was made within fifteen days after the date on which the vessel first returned to a port after discovering such damage;

(3) There was no record on the most recent nautical charts issued by the National Ocean Survey, NOAA, or in any weekly Notice to Mariners issued by the Defense Mapping Agency Hydrographic/Topographic Center, in effect at least 15 days before the date the damage or loss occurred, then an obstruction existed in the immediate vicinity where the damage or loss occurred. In the case of damages caused by a pipeline, the presumption will be available regardless of whether the pipeline was recorded on charts or in the Notice to Mariners; and

(4) There was no proper surface marker or lighted buoy attached, or closely anchored, to such obstruction.

(c) *Geographic exclusion from presumption of causation.* Damage or loss occurring within a one-quarter mile radius of obstructions recorded on charts or in a Notice to Mariners, or properly marked, is presumed to involve the recorded or marked obstruction.

#### **§ 296.8 Amount of award.**

(a) *Actual damages.* The award for damaged fishing gear will be the lesser of the gear's repair cost or replacement cost. The award for lost fishing gear will be the gear's replacement cost.

(b) *Consequential damages.* An award may also include compensation for any damage or loss (except personal injury) that is incurred as a consequence of the fishing gear damage or loss.

(c) *Resulting economic loss.* An award may also include 50 percent of the resulting economic loss from damage to or loss of fishing vessels and gear.

(d) *Attorney, CPA, consultant fees.* An award may also include compensation for reasonable fees paid by the claimant to an attorney, CPA, or other consultant for the preparation or prosecution of a claim.

(e) *Negligence of claimant.* (1) An award will be reduced to the extent that the loss or damage was caused by the negligence or fault of the claimant. (For example, a claimant who sustained \$10,000 in damages and whose negligence or fault was found to be responsible for 40% of the damage would receive \$6,000 in compensation. If the same claimant were responsible for 99% of the negligence or fault that caused the damage, the claimant would receive \$100 in compensation).

(2) Negligence of the owner or operator of the fishing vessel or gear will reduce crewmember awards to the same extent that it reduces an award to the vessel's owner or operator.

(f) *Insurance proceeds.* An award will be reduced by the amount the claimant has, or reasonably would have, received under a commercial policy of full hull and machinery and protection and indemnity insurance, whether or not such insurance was in effect at the time the casualty occurred.

[47 FR 49600, Nov. 1, 1982, as amended at 50 FR 13796, Apr. 8, 1985]

#### **§ 296.9 Initial determination.**

The Chief, FSD will make an initial determination on a claim within 60 days after the day on which the claim is accepted for filing. The initial determination will state:

- (a) If the claim is disapproved, the reason for disapproval, or
- (b) If the claim is approved, the amount of compensation and the basis on which the amount was determined.

**§ 296.10 Agency review.**

(a) Within 30 days after the Chief, FSD, issues an initial determination, the claimant, or any other interested person who submitted evidence relating to the initial determination, may ask the Assistant Administrator, NMFS, or his designee, for a review of the initial determination.

(b) The petitioner may submit written or oral evidence within 30 days of filing the petition for review.

**§ 296.11 Final determination.**

(a) If a petition for review of an initial determination is filed within 30 days after the date the Chief, FSD, issues an initial determination, the Assistant Administrator, NMFS, or his designee will conduct a review of the initial determination, and will issue a final determination no later than 60 days after receipt of the request for review of the initial determination.

(b) If a petition for review of an initial determination is not filed within 30 days after the day on which the Chief, FSD, issues an initial determination, the initial determination will become a final determination.

**§ 296.12 Payment of costs.**

(a) *By person denying responsibility for damage.* Any person who is notified by the Interior Department and fails to respond or denies responsibility for the damages claimed will pay the costs of the proceedings if such person is subsequently found to be responsible for the damage claimed.

(b) *By the claimant.* Any claimant who files a claim will pay the cost of the proceedings if such person is subsequently found to be responsible for the damage claimed.

(c) *By person denying responsibility for damage and the claimant.* If more than one party is found to have responsibility for the damage claimed, then the cost of the proceedings will be apportioned between them.

**§ 296.13 Payment of award for claim.**

(a) Upon an initial determination, the Chief, Financial Services Division, shall immediately disburse the claim awarded if the claimant signed as part of his/her application a statement agreeing to repay all or any part of the award if the award should for any reason be subsequently reduced.

(b) [Reserved] [61 FR 6322, Feb. 20, 1996]

**§ 296.14 Subrogation.**

(a) The claim application will contain a subrogation statement signed by the claimant as a condition of payment of the claim which:

- (1) Assigns to the Fund the claimant's rights against third parties; and
- (2) Provides that the claimant will assist the Fund in any reasonable way to pursue those rights.

(b) Collection of subrogated rights. If a reasonable chance of successful collection exists, NMFS will refer any subrogated rights to the Justice Department for collection.

(c) Any moneys recovered through subrogation shall be deposited into the Fund.

[47 FR 49600, Nov. 1, 1982, as amended at 61 FR 6323, Feb. 20, 1996]

**§ 296.15 Judicial review.**

Any claimant or other person who is aggrieved by a final determination may, no later than 30 days after the determination, seek judicial review of the determination in the United States District Court for such judicial district as may be mutually agreeable to the parties concerned or, if no agreement can be reached, in the United States District Court for the judicial district in which the claimant's home port is located.

## SECTION 515 PRE-DISSEMINATION REVIEW & DOCUMENTATION GUIDELINES

### Background

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554, aka the Data Quality Act or Information Quality Act) directed the Office of Management and Budget (OMB) to issue government-wide guidelines that “provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by federal agencies.” OMB complied by issuing guidelines which direct each federal agency to 1) issue its own guidelines; 2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information that does not comply with the OMB 515 Guidelines or the agency guidelines; and 3) report periodically to OMB on the number and nature of complaints received by the agency and how the complaints were handled. The OMB Guidelines can be found at: <http://www.whitehouse.gov/omb/fedreg/reproducible2.pdf>

The Department of Commerce Guidelines can be found at: <http://www.osec.doc.gov/cio/oipr/iqg.htm>

The NOAA Section 515 Information Quality Guidelines, created with input and reviews from each of the components of NOAA Fisheries, went into effect on October 1, 2002. **The NOAA Information Quality Guidelines are posted on the NOAA home page under “Information Quality.”** <http://www.noaanews.noaa.gov/stories/iq.htm>

The guidelines apply to a wide variety of government information products and all types of media, including printed, electronic, broadcast or other. The guidelines define “Information” as, “any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.” For example, this definition includes information that an agency disseminates from a web page. The guidelines define “Dissemination” as, “agency initiated or sponsored distribution of information to the public.” Explicitly **not** included within this term is distribution limited to “government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law.” It also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes. (See the NOAA IQ Guidelines, pgs 5-6).

To assist in Data Quality Act compliance, NOAA Fisheries has established a series of actions that should be completed for each new information product subject to the Data Quality Act. (See “Information Generation and Compliance Documentation” and “Pre-Dissemination Review” below.) **In addition to the information contained in this document, familiarity with the NOAA Section 515 Information Quality Guidelines (<http://www.noaanews.noaa.gov/stories/iq.htm>) is crucial for NOAA Fisheries employees who engage in the generation and dissemination of information.**

### Information Generation and Compliance Documentation

- The fundamental step in the process is to create a Sec. 515 Information Quality file for each new information product. To aid in this process, a Section 515 Pre-Dissemination Review and Documentation form has been created. These guidelines are intended to serve as a supplement to the Pre-Dissemination Review and Documentation Form. The basic steps to the documentation process are outlined below.
- Complete general information (e.g., author/responsible office, title/description) section of the form.
- Determine the information category (i.e., original data; synthesized products; interpreted products; hydrometeorological, hazardous chemical spill, and space weather warnings, forecasts, and advisories; experimental products; natural resource plans; corporate and general information). **For most information products, you will only need to check one box.** More complex documents may be an “aggregate” of different categories of information products.
- Generate the information in a way that meets each of the applicable standards for the appropriate information category. See the NOAA Information Quality Guidelines.
- Document how the standards for **utility, integrity and objectivity** are met for each information product, describing what measures were taken to meet each of the applicable standards. Use the 2 page Pre-Dissemination Review & Documentation Form to document compliance with the Utility and Integrity standards contained in NOAA’s Information Quality Guidelines. The Utility and Integrity standards pertain to all categories of information disseminated by NOAA. Use these guidelines (pgs 4-11) to document compliance with the applicable objectivity standards for your information product and attach that documentation to the Pre-Dissemination Review & Documentation Form.
- Maintain the Sec. 515 Information Quality file in a readily accessible place. [Pre-Dissemination Review](#)
- Before information is disseminated, it must be reviewed for compliance with the NOAA Sec. 515 Information Quality Guidelines. This is accomplished by reviewing the information and the Sec. 515 Information Quality file.
- The Pre-Dissemination Review should be conducted during the normal course of clearing the information product for release. The person conducting the Pre-Dissemination Review will sign and date the Pre-Dissemination Review & Documentation Form. The reviewing official must be at least one level above the person generating the information product.
- The Pre-Dissemination Review form and the supporting information quality documentation must accompany the information product through the clearance process and be maintained on file.

### Completing the Section 515 Pre-Dissemination Review & Documentation Form

Using the Section 515 Pre-Dissemination Review & Documentation Form and these guidelines, document how the information product meets the

following standards for **Utility, Integrity and Objectivity**. **Please note:** Use the Pre-Dissemination Review & Documentation Form to document how the information product complies with the Utility and Integrity standards that pertain to all categories of information products. The Utility and Integrity standards are presented here for your convenience. Use these guidelines to explain how the information product meets the applicable Objectivity standards for the information product and attach that documentation to the Pre-Dissemination Review & Documentation Form.

### I. Utility of Information Product

Utility means that disseminated information is useful to its intended users. "Useful" means that the content of the information is helpful, beneficial, or serviceable to its intended users, or that the information supports the usefulness of other disseminated information by making it more accessible or easier to read, see, understand, obtain or use.

- A. Is the information helpful, beneficial or serviceable to the intended user? Explain.
- B. Who are the intended users of the data or information product? (e.g., the American public; other federal agencies; state and local governments; recreational concerns; national and international organizations). Is this data or information product an improvement over previously available information? Is it more detailed or current? Is it more useful or accessible to the public? Has it been improved based on comments or interactions with users?
- C. What media are used in the dissemination of the information? Printed publications? CD-ROM? Internet?  
Is the product made available in a standard data format?  
Does it use consistent attribute naming and unit conventions to ensure that the information is accessible to a broad range of users with a variety of operating systems and data needs?

### II. Integrity of Information Product

Integrity refers to security - the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification. Prior to dissemination, NOAA information, independent of the specific intended distribution mechanism, is safeguarded from improper access, modification, or destruction, to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information. **Please note: all electronic information disseminated by NOAA adheres to the standards set forth in paragraph A below. If the information product is disseminated electronically, simply circle paragraph II(A) on the form.** You may also contact your IT Manager for further information.

Explain (circle) how the information product meets the following standards for integrity:

- A. All electronic information disseminated by NOAA adheres to the standards set out in Appendix III, "Security of Automated Information Resources," OMB Circular A-130; the Computer Security Act; and the Government Information Security Reform Act.
- B. If information is confidential, it is safeguarded pursuant to the Privacy Act and Titles 13, 15, and 22 of the U. S. Code (confidentiality of census, business and financial information).
- C. Other/Discussion  
(e.g., 50 CFR 600, Subpart E, Confidentiality of Statistics of the Magnuson-Stevens Fishery Conservation and Management Act; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the Marine Mammal Protection Act.)

### III. Objectivity of Information Product

(1) Indicate which one of the following categories of information products apply for this product (check one):

- Original Data - go to Section A
- Synthesized Products - go to Section B
- Interpreted Products - go to Section C
- Hydrometeorological, Hazardous Chemical Spill, and Space Weather Warnings, Forecasts, and Advisories - go to Section D
- Experimental Products - go to Section E
- Natural Resource Plans - go to Section F
- Corporate and General Information - go to Section G

(2) Describe how this information product meets the applicable objectivity standards.

General Standard: Information is presented in an accurate, clear, complete, and unbiased manner, and in proper context. The substance of the information is accurate, reliable, and unbiased; in the scientific, financial or statistical context, original and supporting data are generated and the analytical results are developed using sound, commonly accepted scientific and research methods. "Accurate" means that information is within an acceptable degree of imprecision or error appropriate to the particular kind of information at issue and otherwise meets commonly accepted scientific, financial and statistical standards.

If the information is "influential," that is, it is expected to have a genuinely clear and substantial impact on major public policy and private sector decisions, it is noted as such and it is presented with the highest degree of transparency. If influential information constitutes an assessment of risks to human health, safety or the environment, indicate whether the risk assessment was qualitative or quantitative, and describe which SDWA-adapted quality standards at page 9 of NOAA's Section 515 Information Quality Guidelines were applied to the information product.

Use of third party information in the product (information not collected or generated by NOAA) is only done when the information is of known quality and consistent with NOAA's Section 515 Guidelines; any limitations, assumptions, collection methods, or uncertainties concerning the information are taken into account and disclosed.

Specific Standards: Specific objectivity standards for categories of information products disseminated by NOAA are listed below. Document how the general and specific objectivity standards for the particular information product were met.

**A. Original Data**

Original Data are data in their most basic useful form. These are data from individual times and locations that have not been summarized or processed to higher levels of analysis. While these data are often derived from other direct measurements (e.g., spectral signatures from a chemical analyzer, electronic signals from current meters), they represent properties of the environment. These data can be disseminated in both real time and retrospectively. Examples of original data include buoy data, survey data (e.g., living marine resource and hydrographic surveys), biological and chemical properties, weather observations, and satellite data.

Objectivity of original data is achieved using sound quality control techniques.

Detail how the data collection methods, systems, instruments, training, and/or tools are appropriate to meet the requirements of the intended users.

Were the methods, systems, instruments, etc., validated before use?

Were standard operating procedures (SOPs) followed for time series data collections? If not, document the valid scientific reasons for the deviation.

Document the quality control techniques used, for example:

- Gross error checks for data that fall outside of physically realistic ranges (e.g., a minimum, maximum or maximum change)
- Comparisons made with other independent sources of the same measurement
- Examination of individual time series and statistical summaries
- Application of sensor drift coefficients determined by a comparison of pre- and post-deployment calibrations
- Visual inspection of data

Describe any evolution and/or improvements in survey techniques, instrument performance and/or data processing.

Have metadata record descriptions and explanations of the methods and quality controls to which original data are subjected been included in the disseminated product? If not, they must be made available upon request.

**B. Synthesized Products**

Synthesized Products are those that have been developed through analysis of original data. This includes analysis through statistical methods; model interpolations, extrapolations, and simulations; and combinations of multiple sets of original data.

While some scientific evaluation and judgment is needed, the methods of analysis are well documented and relatively routine.

Examples of synthesized products include summaries of fisheries landings statistics, weather statistics, model outputs, data display through Geographical Information System techniques, and satellite-derived maps.

The objectivity of synthesized products is achieved by using data of known quality, applying sound analytical techniques, and reviewing the products or processes used to create them before dissemination. For synthesized products, please document the following:

Identify data sources (preferred option) or be prepared to make them available upon request.

Are the data used of known quality or from sources acceptable to the relevant scientific and technical communities?

Are the methods used to create the synthesized product published in standard methods manuals or generally accepted by the relevant scientific and technical communities? Are the methods documented in readily accessible formats by the disseminating office?

Describe the review process used to ensure the validity of the synthesized product or the procedures used to create them, e.g., statistical procedures, models, or other analysis tools.

If the synthesized product is unique or not regularly produced, was this product reviewed by internal and/or external experts?

If this is a routinely produced synthesized product, was the process for developing the product reviewed by internal and/or external experts?

Does the synthesized product include information about the methods used to create the product? If not, the methods must be made available upon request.

**C. Interpreted Products**

Interpreted Products are those that have been developed through interpretation of original data and synthesized products. In many cases, this information incorporates additional contextual and/or normative data, standards, or information that puts original data and synthesized products into larger spatial, temporal, or issue contexts. This information is subject to scientific interpretation, evaluation, and judgment. Examples of interpreted products include journal articles, scientific papers, technical reports, and production of and contributions to integrated assessments.

Objectivity of interpreted products is achieved by using data of known quality or from sources acceptable to the relevant scientific and technical communities and reliable supporting products, applying sound analytical techniques, presenting the information in the proper context, and reviewing the products before dissemination.

Are all data and information sources identified or properly referenced?

Are the methods used to create the interpreted product generally accepted by the relevant scientific and technical communities?

Is information concerning the quality and limitations of the interpreted product provided to help the user assess the suitability of the product for the user's application?

Describe the review process used to ensure that the product is valid, complete, unbiased, objective and relevant. For example, peer reviews, ranging from internal peer review by staff who were not involved in the development of the product to formal, independent, external peer review. The review should be conducted at a level commensurate with the importance of the interpreted product.

Does the interpreted product include a description of the methods used to create the product? If not, they must be made available upon

request.

**D. Hydrometeorological, Hazardous Chemical Spill, and Space Weather**

**Warnings, Forecasts, and Advisories**

Hydrometeorological, Hazardous Chemical Spill, and Space Weather Warnings, Forecasts, and Advisories are time-critical interpretations of original data and synthesized products, prepared under tight time constraints and covering relatively short, discrete time periods. As such, these warnings, forecasts, and advisories represent the best possible information in given circumstances. They are subject to scientific interpretation, evaluation, and judgment. Some products in this category, such as weather forecasts, are routinely prepared. Other products, such as tornado warnings, hazardous chemical spill trajectories, and solar flare alerts, are of an urgent nature and are prepared for unique circumstances.

Objectivity of information in this category is achieved by using reliable data collection methods and sound analytical techniques and systems to ensure the highest possible level of accuracy given the time critical nature of the products.

What is the source of the data or information used in the product? Are the data used of known quality or from sources acceptable to the relevant scientific and technical communities? Are the sources included in the information product? If not, they must be made available upon request. Are the methods used to create the product generally accepted by the relevant scientific and technical communities?

Please note if individual best judgment was used due to the time-critical nature of the product.

What mechanisms were used to evaluate the accuracy of the information product? Statistical analysis may be carried out for a subset of products for verification purposes.

**E. Experimental Products**

Experimental products are products that are experimental (in the sense that their quality has not yet been fully determined) in nature, or are products that are based in part on experimental capabilities or algorithms. Experimental products fall into two classes.

They are either (1) disseminated for experimental use, evaluation or feedback, or (2) used in cases where, in the view of qualified scientists who are operating in an urgent situation in which the timely flow of vital information is crucial to human health, safety, or the environment, the danger to human health, safety, or the environment will be lessened if every tool available is used. Examples of experimental products include imagery or data from non-NOAA sources, algorithms currently being tested and evaluated, experimental climate forecasts, and satellite imagery processed with developmental algorithms for urgent needs (e.g., wildfire detection).

Objectivity of experimental products is achieved by using the best science and supporting studies available, in accordance with sound and objective scientific practices, evaluated in the relevant scientific and technical communities, and peer-reviewed where feasible.

Describe the science and/or supporting studies used, the evaluation techniques used, and note any peer-review of the experimental product. Were the results of initial tests or evaluations made available where possible? Describe the review, by the appropriate NOAA unit, of the experimental products and capabilities documentation, along with any tests or evaluations.

Are explicit limitations provided concerning the quality of the experimental product? Is the degree of uncertainty indicated?

Describe the testing process used, e.g., the experimental product or capabilities are used only after careful testing, evaluation, and review by NOAA experts, and then are approved for provisional use only by selected field offices or other NOAA components. This process is repeated as needed to ensure an acceptable and reliable level of quality.

**F. Natural Resource Plans**

Natural Resource Plans are information products that are prescribed by law and have content, structure, and public review processes (where applicable) that will be based upon published standards, e.g., statutory or regulatory guidelines. Examples of such published standards include the National Standard Guidelines (50 CFR Part 600, Subpart D), Essential Fish Habitat Guidelines, and Operational Guidelines - Fishery Management Plan Process, all under the Magnuson-Stevens Fishery Conservation and Management Act; and the National Marine Sanctuary Management Plan Handbook (16 U.S.C. section 1434) under the National Marine Sanctuary Act. These Natural Resource Plans are a composite of several types of information (e.g., scientific, management, stakeholder input, and agency policy) from a variety of internal and external sources. Examples of Natural Resources Plans include fishery, protected resource, and sanctuary management plans and regulations, and natural resource restoration plans.

Objectivity of Natural Resource Plans will be achieved by adhering to published standards, using information of known quality or from sources acceptable to the relevant scientific and technical communities, presenting the information in the proper context, and reviewing the products before dissemination.

What published standard(s) governs the creation of the Natural Resource Plan? Does the Plan adhere to the published standards? (See the NOAA Sec. 515 Information Quality Guidelines, Section II(F) for links to the published standards for the Plans disseminated by NOAA.)

Was the Plan developed using the best information available? Please explain.

Have clear distinctions been drawn between policy choices and the supporting science upon which they are based? Have all supporting materials, information, data and analyses used within the Plan been properly referenced to ensure transparency?

Describe the review process of the Plan by technically qualified individuals to ensure that the Plan is valid, complete, unbiased, objective and relevant. For example, internal review by staff who were not involved in the development of the Plan to formal, independent, external peer review. The level of review should be commensurate with the importance of the Plan and the constraints imposed by legally enforceable deadlines.

**G. Corporate and General Information**

Corporate or general information includes all non-scientific, non-financial, non-statistical information. Examples include program and organizational descriptions, brochures, pamphlets, education and outreach materials, newsletters, and other general descriptions of NOAA operations and capabilities.

Corporate and general information disseminated by NOAA must be presented in a clear, complete, and unbiased manner, and in a context that enhances usability to the intended audience. To the extent possible, identify the sources of the disseminated information, consistent with confidentiality, privacy and security considerations and protections, and taking into account timely presentation, the medium of dissemination, and the importance of the information, balanced against the resources required and the time available.

whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7021-X H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 07-00005." A summary of the application follows.

*Summary of the Application:*

*Applicant:* XCC EXPORTZ INC. ("XCC"), 8511 Rancho del Oro Pl. NE., Albuquerque, NM 87113.

*Contact:* Mr. Sergio Barada, President, Telephone: (505) 205-0311.

*Application No.:* 07-00005.

*Date Deemed Submitted:* November 19, 2007.

*Members* (in addition to applicant): None.

XCC seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

#### Export Trade

1. *Products*  
All Products.
2. *Services*  
All Services.
3. *Technology Rights*

Technology rights, including, but not limited to, patents, trademarks, copyrights, and trade secrets, that relate to Products and Services.

4. *Export Trade Facilitation Services (as they relate to the export of Products, Services, and Technology Rights)*

Export Trade Facilitation Services include professional services in the areas of government relations and assistance with state and federal programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping; export management; export licensing;

advertising; documentation and services related to compliance with Customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation; and facilitating the formation of shippers' associations.

#### Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

#### Export Trade Activities and Methods of Operation

1. With respect to the sale of Products and Services, licensing of Technology Rights and the provision of Export Trade Facilitation Services, XCC, subject to the terms and conditions listed below, may:

- a. Provide and arrange for the provision of Export Trade Facilitation Services;
- b. Engage in promotional and marketing activities and collect information on trade opportunities in the Export Markets and distribute such information to clients;
- c. Enter into exclusive and/or non-exclusive licensing and/or sales agreements with Suppliers for the export of Products, Services, and/or Technology Rights to Export Markets;
- d. Enter into exclusive and/or non-exclusive agreements with distributors and/or sales representatives in Export Markets;
- e. Allocate export sales or divide Export Markets among Suppliers for the sale and/or licensing of Products, Services, and/or Technology Rights;
- f. Allocate export orders among Suppliers;
- g. Establish the price of Products, Services, and/or Technology Rights for sales and/or licensing in Export Markets;
- h. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights; and
- i. Enter into contracts for shipping.

2. XCC and individual Suppliers may regularly exchange information on an individual one-on-one basis regarding that Supplier's inventories and near-term production schedules in order that the availability of Products for export can be determined and effectively coordinated by XCC with its distributors in Export Markets.

#### Terms and Conditions of Certificate

1. XCC, including its officers, employees or agents, shall not intentionally disclose, directly or indirectly, to any Supplier (including parent companies, subsidiaries, or other entities related to any Supplier) any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods unless such information is already generally available to the trade or public.

2. XCC will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of Section 303(a) of the Act.

#### Definition

"Supplier" means a person who produces, provides, or sells Products, Services, and/or Technology Rights.

Dated: November 28, 2007.

**Jeffrey Anspacher,**

*Director, Export Trading Company Affairs.*

[FR Doc. E7-23403 Filed 11-30-07; 8:45 am]

**BILLING CODE 3510-DR-P**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Fishermen's Contingency Fund

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before February 1, 2008.



**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Charles L. Cooper, (301) 713-2396 or [charles.cooper@noaa.gov](mailto:charles.cooper@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

U.S. commercial fishermen may file claims for compensation for losses or damage to fishing gear or vessels, plus 50 percent of resulting economic losses, attributable to oil and gas activities on the U.S. outer continental shelf. To obtain compensation, applicants must comply with requirements set forth in 50 CFR part 296. The requirements include a report within 15 days of the date the vessel returns to port after the incident, to gain a presumption of eligible causation and to receive an application form.

**II. Method of Collection**

Paper forms are used for applications, and 15-day reports are made by telephone.

**III. Data**

*OMB Number:* 0648-0082.

*Form Number:* NOAA Forms 88-164, 88-166.

*Type of Review:* Regular submission.

*Affected Public:* Individuals or households; business or other for profit organizations.

*Estimated Number of Respondents:* 100.

*Estimated Time per Response:* 10 hours for an application, and 5 minutes for a 15-day report.

*Estimated Total Annual Burden Hours:* 1,008.

*Estimated Total Annual Cost to Public:* \$500.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the

use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 27, 2007.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E7-23309 Filed 11-30-07; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**Proposed Information Collection; Comment Request; Foreign Fishing Vessel Permit Applications**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before February 1, 2008.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Robert Dickinson, (301) 713-2276 or [Bob.Dickinson@noaa.gov](mailto:Bob.Dickinson@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

Section 204 of the Magnuson-Stevens Fishery Conservation and Management Act and regulations at 50 CFR part 600, Subpart F, provide for the issuance of fishing permits to foreign vessels. The information submitted in fishing applications is used to determine whether permits should be issued to authorize directed foreign fishing, participation in joint ventures with U.S.

vessels, or transshipments of fish or fish products within U.S. waters.

**II. Method of Collection**

Paper forms are used.

**III. Data**

*OMB Number:* 0648-0089.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 6.

*Estimated Time per Response:* One and one half hours for an application for a directed fishery; 2 hours for a joint venture application; and 45 minutes for a transshipment permit.

*Estimated Total Annual Burden Hours:* 7.

*Estimated Total Annual Cost to Public:* \$2,442.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 27, 2007.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E7-23310 Filed 11-30-07; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**Proposed Information Collection; Comment Request; Pacific Albacore Logbook**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

Information disseminated by NOAA is reliable and accurate to an acceptable degree of error as determined by factors such as the importance of the information, the intended use, time sensitivity, expected degree of permanence, relation to the primary mission(s) of the disseminating office, and the context of the dissemination, balanced against the resources required and the time available.

For non-scientific, non-statistical information, has the information product been reasonably determined to be factually correct in the view of the disseminating office as of the time of dissemination?

Describe the review process for the information product. Review can be accomplished in a number of ways, including but not limited to combinations of the following:

- Active personal review of information by supervisory and management layers, either by reviewing each individual dissemination, or selected samples, or by any other reasonable method.
- Use of quality check lists, charts, statistics, or other means of tracking quality, completeness, and usefulness.
- Process design and monitoring to ensure that the process itself imposes checks on information quality .
- Review during information preparation.
- Use of management controls.
- Any other method, which serves to enhance the accuracy, reliability and objectivity of the information.